

Statement of Case Kelham Solar Farm

Assured Asset Solar 2 Ltd

Planning application reference 23/01837/FULM

In the administrative area of Newark & Sherwood District Council

Dated

15 April 2025

Contents

1.	Introduction	1
2.	Reasons for Refusal	1
3.	Documents	2
4.	The Site and Context	2
5.	The Development	4
6.	Development Plan	5
7.	National Planning Policy	8
8.	Need for the Development	10
9.	Other material considerations	15
10.	Rebuttal of Grounds of Refusal	32
11.	Planning Obligation and Conditions	48
12.	Conclusion	48
	Appendix 1	50
	List of final drawings and documents based on which the planning application was determined	50
	Appendix 2	51
	Commentary on development plan policies	51
	Appendix 3	52
	Appeal decision APP/D0840/W/23/3334658	52
	Appendix 4	53
	Appeal decision APP/C1570/W/23/3319421	53
	Appendix 5	54
	EN010101-000888 – Decision Letter – Little Crow Solar Park	54
	Appendix 6	55
	Appeal decision APP/H1705/W/22/3304561	55
	Appendix 7	56
	EM010118-001300 Decision Letter Longfield Solar Farm	56
	Appendix 8	57
	Appeal decision APP/G2713/W/23/3315877	57
	Appendix 9	58
	Appeal decision APP/C1570/W/23/3319421	58
	Appendix 10	59
	Appeal decision APP/U2235/W/23/3321094	59
	Appendix 11	60
	Appeal decision APP/L3245/W/23/3329815	60
	Appendix 12	61
	Appeal decision APP/D0840/W/23/3334658	61
	Appendix 13	62
	Appeal decision APP/P3040/W/23/3330045	62
	Appendix 14	63
	Appeal decision APP/U1105/W/23/3320714	63
	Appendix 15	64
	Appeal decision APP/L3245/W/23/3314982	64
	Appendix 16	65
	Appeal decision APP/B3030/W/24/3344502	65
	Appendix 17	66
	Appeal decision APP/B3030/W/24/3344500	66
	Appendix 18	67
	Pugh v SoSCLG [2015] EWHC 3 (Admin)	67
	Appendix 19	68
	Appeal Decision APP/B3030/W/23/3334043	68

1. Introduction

- 1.1 This appeal is made by Assured Asset Solar 2 Ltd ("Appellant") pursuant to Section 78 of the Town and Country Planning Act 1990 against the refusal on the 31st January 2025 of a planning application registered with reference 23/01837/FULM ("Application") by Newark & Sherwood District Council ("Council") for a solar farm and battery storage project ("Development") on land north of Main Road, Kelham ("Site").
- 1.2 The full description of the Development is:
- "Proposed ground mounted photo voltaic solar farm and battery storage system with associated equipment, infrastructure, grid connection and ancillary work".
- 1.3 The Application was prepared and submitted by Sirius Planning on behalf of the Appellant and the Application Form was dated 12 October 2023. The Application was validated on 17 October 2023.
- 1.4 Craig Miles, Senior Planner (Development Management) at the Council wrote a "Report to Planning Committee 16 January 2025" which recommended approval of the Application subject to the completion of a Section 106 agreement. The Planning Committee resolved on 16 January 2025 to refuse the Application, contrary to Mr Miles's recommendation, and a decision notice refusing the Application was dated and issued on 31 January 2025 ("Decision").

2. Reasons for Refusal

- 2.1 Three reasons were given for the refusal of the Application being:
- (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 ("Reason 1").
- (b) The proposed development, when taken cumulatively with other renewable energy developments in the locality, will result in unacceptable harm to the 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 ("Reason 2").
- (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 the 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 ("Reason 3").

3. Documents

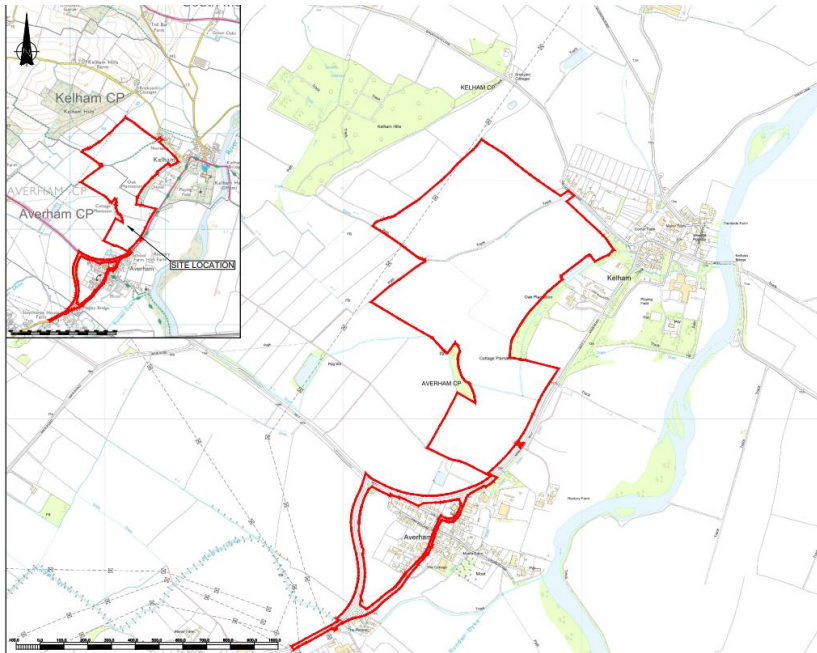
- 3.1 A list of Core Documents will be agreed with the Council through a Statement of Common Ground, however a list of documents based on which the Appellant understands the Application was determined is set out at Appendix 1 of this Statement of Case.

4. The Site and Context

- 4.1 The Site is located between the villages of Kelham (to the east) and Averham (to the south). The market town of Newark-on-Trent is located approximately 2.8km to the east of the proposal site (see location plan HC1002/05/01 Rev 0 and Figure 1 below).

Figure 1:





- 4.2 The Site comprises three fields and part of a fourth, totalling approximately 65ha of flat land located between the villages of Kelham and Averham. The existing use of the Site is for growing energy and animal food crops.
- 4.3 A small irrigation pond is located in the eastern corner of the Site and 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 part heading north west and the other south west. There is also a high voltage overhead power line that runs across the north western corner of the site in a northeast/southwest alignment.
- 4.4 The Site is bounded by a network of hedgerows and ditches, with copses of broadleaved woodland. The surrounding area consists mainly of agricultural land. Along the south eastern edge of the Site is Main Road (A617), beyond which is the village Averham and the River Trent. To the east of the Site, beyond the established plantation, is Kelham House, a handful of secluded residential properties and the village of Kelham. Broadgate Lane bounds the Site to the north east, beyond which is a row of residential properties that overlook the Site. To the west and south is a continuation of agricultural land.
- 4.5 The Site is currently accessed via three separate field gates, two entrances from the A617 along the eastern and south eastern boundary. The third entrance is from Broadgate Lane on the north eastern boundary.
- 4.6 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. The nearest non-residential property to the Site is Kelham House, located beyond the established plantation to the east of the Site's boundary.
- 4.7 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 four LWS within 1km of the Site. The Site does not lie within any historic environments, however Kelham Conservation Area is adjacent to the eastern boundary of the Site. There are thirteen 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 nearest Scheduled Monument is 'Averham moat and enclosure' located approximately 420m south of the Site.

4.8 Environment Agency Flood Risk Maps advise that the Site is largely within Flood Zone 1 with an area of Flood Zone 2 along the eastern boundary. A small section of the access road is within Flood Zone 3, but none of the build development will be within Flood Zone 3.

4.9 The Newark and Sherwood Local Development Framework identifies the Site as being in the countryside.

5. **The Development**

5.1 The Development will comprise:

- (a) Photovoltaic (PV) panels;
- (b) Mounting frames - matt finished small section metal structure;
- (c) Battery container units;
- (d) Scheme of landscaping and biodiversity enhancement;
- (e) Permissive public access
- (f) Inverters (accommodated on the mounting frames) and transformers (housed in prefabricated containers) and associated cabling (largely below ground);
- (g) Separate Distribution Network Operator (DNO), communication mast(s) and customer substations and meter points for the solar and BESS;
- (h) Deer fencing and infra-red CCTV (CCTV cameras would operate using motion sensors and would be positioned inward only to ensure privacy to neighbouring land and property);
- (i) Temporary construction set down and storage area;
- (j) Internal service roads; and
- (k) Site access for the construction and operational phases

5.2 The layout of the Development is illustrated on drawing HC1002/05/03 Rev 4 and is described in detail at paragraphs 3.2 – 3.8 of the Planning Statement.

5.3 The plans and drawings illustrating the Development are set out in Appendix 1 of this Statement.

5.4 The reports and documents that informed the Application are set out in Appendix 1 of this Statement.

5.5 Details of the Site Waste Management Plan, Surface Water Management, Construction Programme and Operational Programme and Decommissioning are described in detail at paragraphs 3.9 - 3.12 of the Planning Statement.

5.6 The solar farm element of the Development will have an export capacity of 49.9MW, enough to power over 12,600 homes per year and offset approximately 13,400 tonnes of CO₂ every year, being the equivalent of taking over 5,100 cars off the road. The Battery Energy Storage System ("BESS") element of the Development will have a capacity of 50MW, i.e. the amount of power than can be stored and distributed back to the grid when needed. The Development will have a lifespan of 40 years after which all equipment will be removed from Site.

- 5.7 The solar panels will be connected to small inverter units typically located on the racking of the frames on which the solar panels are mounted. The inverters will connect to transformer stations which convert the electricity from Direct Current (DC) to Alternating Current (AC). The transformers ensure that electricity can be transferred to the substation and then to the 'local grid' more efficiently. A 'customer' substation will also be provided.
- 5.8 The solar panels will be arranged in rows in an east-west alignment across the deployment area and will be angled at approximately 15° to the horizontal and orientated south. All panels will be mounted on metal frames and have a maximum height of 2.0m above ground level; the lowest part of the panel being circa 0.6m above ground level. The rows of solar panels will be set to between 3m and 5m apart to avoid shadowing and allow for scheduled maintenance.
- 5.9 The proposed BESS will have a capacity to charge, store and export up to 50MVA of electricity from/to the distribution network. The facility will provide balancing services to National Grid to ensure the future security of the country's electricity supply. The facility will provide power to the local distribution network in a short space of time when demand is greater than available supply.
- 5.10 The proposed point of connection is at Staythorpe Substation, located approximately 1.4km to the south of the Site. The cable route will run underground within the highway.
- 5.11 The proposed access from the A617 will be secured by a gate to prevent unauthorised vehicular access, however, pedestrian access will be available.
- 5.12 The BESS compound will be secured by a 2.4m high paladin fencing. The substations will be secured by a 2.4m high palisade fencing. A 4m high acoustic fencing will surround the substation on the western, southern and eastern elevation.
- 5.13 Once operational, the solar farm element of the Development will be secured by a circa 2m high stock fence or similar. Infra-red (non-visible at night), inward facing pole mounted CCTV cameras (circa 2.5m – 3m in height) will also be provided at regular intervals along the boundary fence. These will enable remote surveillance of the Site.
- 5.14 In addition to land between and beneath the panels, there will be some areas of non-development land located within the Site that will be brought under formal management for the life of the scheme. A scheme of landscaping and biodiversity enhancement will also be provided. A Construction Traffic Management Plan was submitted with the Application and confirms that the construction period is expected to last between 6 to 12 months, but that the majority of vehicle movements, associated with the arrival and departure of site staff and the delivery of equipment and constructions materials, will occur within the first 6 months. Following completion of the Development, it is expected that the only vehicle movements will be concerned with maintenance of the Site.
- 5.15 The Development has been refined throughout the application process in response to both consultation comments and recommendations made by the Planning Officer. This appeal concerns the final iteration of the Development as reported on by the Planning Officer and considered by the Council's Planning Committee. No further amendments have been made to it.

6. Development Plan

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that planning applications are determined in accordance with the provisions of the development plan unless other material considerations indicate otherwise. The Site falls fully within the administrative boundaries of the Council and the development plan comprises the adopted Local Development Framework ("LDF"), made up of the Amended Core Strategy (2019), the Allocations and Development Management Development Plan Document (2013) ("DPD"), and the Policies Map.

- 6.2 The Amended Core Strategy was formally adopted in March 2019 and sets out the Council's spatial policy framework for delivering the development and change needed to realise the Council's vision for the District up to 2033.
- 6.3 The adopted LDF Policies Map identifies the Site as outside defined development limits and is therefore considered to lie within the 'countryside'.
- 6.4 The relevant Amended Core Strategy policies for the purposes of the Development are:
- (a) Spatial Policy 3 – Rural Areas
 - (b) Spatial Policy 7 – Sustainable Transport
 - (c) Core Policy 9 – Sustainable Design
 - (d) Core Policy 10 – Climate Change
 - (e) Core Policy 12 – Biodiversity and Green Infrastructure
 - (f) Core Policy 13 – Landscape Character
 - (g) Core Policy 14 – Historic Environment
- 6.5 These policies are set out in and appraised in detail at paragraph 6.4.5 of the Planning Statement (extract at Appendix 2 of this Statement of Case).
- 6.6 The relevant DPD policies for the purposes of the Development are:
- (a) Policy DM4 - Renewable and Low Carbon Energy Generation.
 - (b) Policy DM5 – Design
 - (c) Policy DM7 – Biodiversity and Green Infrastructure
 - (d) Policy DM8 - Development in the Open Countryside
 - (e) Policy DM9 – Protecting and Enhancing the Historic Environment
 - (f) Policy DM10 – Pollution and Hazardous Materials
 - (g) Policy DM12 – Presumption in Favour of Sustainable Development
- 6.7 These policies are set out in and appraised in detail at paragraph 6.4.8 of the Planning Statement (extract at Appendix 2 of this Statement of Case).
- 6.8 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.
- 6.9 There are unresolved objections to amended versions of the above policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the Application was assessed by the Planning Officer in-line with policies from the adopted Development Plan.
- 6.10 Other Material Planning Considerations:

- (a) Nottinghamshire Minerals Local Plan (2021):
- (b) Policy SP7: Minerals Safeguarding, Consultation Area, and Associated Minerals Infrastructure.
- (c) Newark Sherwood District Council's Climate Emergency Strategy 2020
- (d) Newark and Sherwood Landscape Character Assessment SPD, 2013
- (e) Newark and Sherwood Non-Designated Heritage Asset Criteria, 2021
- (f) National Planning Policy Framework (NPPF) 2024 (as amended in February 2025)
- (g) National Planning Practice Guidance (PPG) online resource
- (h) National Policy Statements EN-1, EN-2 and EN-3
- (i) Written Ministerial Statement 'Solar and protecting our Food Security and Best and Most Versatile (BMV) Land' - 15th May 2024
- (j) The Climate Change Act 2008
- (k) UN Paris Agreement 2016
- (l) Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- (m) Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021)
- (n) The Setting of Heritage Assets -Historic Environment Good Practice Advice in Planning: 3 (2nd Edition)
- (o) Conservation of Habitats and Species Regulations 2017, as amended
- (p) Natural Environment and Rural Communities (2006) Act
- (q) Health and Safety Guidance for Grid Scale Electrical Energy Storage Systems, Department for Energy Security and Net Zero, March 2024

6.11 The Development is consistent with the policy goals of the development plan, in particular Amended Core Strategy policy "Core Policy 10 – Climate Change" where the Council commits to work with developer to:

"promote energy generation from renewable and low-carbon sources...where it is able to demonstrate that its adverse impacts have been satisfactorily addressed" (see the policy and an appraisal of it at paragraph 6.4.5 of the Planning Statement)

and DPD policy "Policy DM4 – Renewable and Low Carbon Energy Generation" which states that:

"planning permission will be granted for renewable and low carbon energy generation development...where its benefits are not outweighed by detrimental impact from the operation and maintenance of the development and through the installation process

1 The landscape character

3 (sic) Heritage Assets and or their settings;

4 Amenity, including noise pollution, shadow flicker and electro-magnetic interference

5 Highway safety

6 The ecology of the local or wider area"

and Policy DPD "Policy DM12 – Presumption in Favour of Sustainable Development" which states:

"A positive approach to considering development proposals will be taken that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Where appropriate, the Council will work pro-actively with applicants jointly to seek solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions within the district.

The Development Plan is the statutory starting point for decision making. Planning applications that accord with the policies in the Development Plan for Newark and Sherwood (including, where relevant, policies in Neighbourhood Development Plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, then permission will be granted unless material considerations indicate otherwise – taking into account whether:

- (a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole. Where adverse impacts do not outweigh benefits consideration should be given to mitigation where harm would otherwise occur".

- 6.12 As set out in detail in the Planning Statement (analysis in section 6, particularly paragraphs 6.4.5 and 6.4.8) and below in this Statement of Case, the Development accords with the development plan policies as a whole, and any adverse impacts identified by the Appellant are subject either to mitigation measures or are such that they do not "demonstrably outweigh" the benefits of the Development, when assessed against development plan and national policies when taken as a whole.

7. National Planning Policy

- 7.1 As set out in detail at paragraphs 6.1 – 6.3 of the Planning Statement, national planning policy and statutory climate related targets (net UK carbon account for the year 2050 to be 100% of 1990 levels), underpin the need for the decarbonisation of energy generation and the growth in sources of renewable energy generation.

- 7.2 The UK is currently not on track to meet the fourth (2023-27) or the fifth (2028-32) 'carbon budgets' (set in accordance with the Climate Change Act 2008), however, the Government's 'Net Zero Strategy' commits the UK to be powered entirely by clean electricity by 2035, subject to security of supply. In order to meet this target a key component is the deployment of new flexibility measures including energy storage to help smooth out power supply and future price spikes. This is also emphasised in the British Energy Security Strategy (2022) which includes a commitment to a fivefold increase in solar deployment by 2035 and the Clean Growth Strategy: Leading the Way to a Low Carbon Future (2017) which includes policies and proposals that aim to accelerate the pace of clean growth.

- 7.3 Since the Application was submitted to the Council, the National Planning Policy Framework ("NPPF") has been further updated (last updated 7 February 2025). The NPPF sets out the Government's planning policies for England and how these should be applied and is a material consideration in planning decisions.

- 7.4 Paragraphs 7 and 8 of the NPPF state:

"The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development and supporting

infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection.

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy".

7.5 Further, in relation to the application of the presumption in favour of sustainable development for decision-making, paragraph 11 of the NPPF states this means:

"c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination"

7.6 In relation to meeting the challenge of climate change, flooding and coastal change, paragraph 161 of the NPPF states:

"The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure".

7.7 In determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, paragraph 168 of the NPPF requires that local planning authorities should:

"a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future;..."

- 7.8 Planning Practice Guidance ("PPG") states in relation to "Planning for renewable and low carbon energy" that:

"Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable".

- 7.9 The PPG also recognises that there are technical considerations relating to renewable energy technologies that affect their siting. In relation to solar and BESS projects, these will include the availability of grid connection, irradiation levels and shadowing from nearby land uses. Further, it identifies particular planning consideration that relate to such projects, all of which considerations are addressed in detail in the Planning Statement.

- 7.10 The most up-to-date statement on national policy on energy and RE are contained in National Policy Statements ("NPS") EN-1, EN-2 and EN3 4, and the May 2024 Written Ministerial Statement. Whilst NPSs have effect for decisions on applications for energy developments that are nationally significant under the Planning Act 2008, they can be a material consideration in decision making on appeals made under the Town and Country Planning Act 1990 (as amended). NPS EN- 1 highlights that wind and solar are the lowest cost way of generating electricity and that a secure reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar.

- 7.11 NPS EN-3 highlights that solar farms are one of the UK's most established renewable energy technologies and the cheapest form of electricity generation. As such, solar is a key part of the Government's strategy for low-cost decarbonisation of the energy sector and has an important role in delivering greater energy independence. NPS EN-3 addresses the key considerations that influence site selection. These include, irradiance, network connection and land type.

- 7.12 NPS EN-3 indicates that land type should not be a predominating factor in determining the suitability of the site location. Developers should, where possible, use suitable previously developed land, brownfield land, contaminated land and industrial land. Where the use of agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of BMV land where possible. The use of BMV land is not prohibited although the impact on it is expected to be considered. The May 2024 WMS says that food and energy security are an essential part of national security. On food security, there is a commitment to maintain the current level of domestic food production recognising that it is important that the best agricultural land is protected and food production prioritised.

- 7.13 Solar power is acknowledged as a key part of the strategy for energy security, net zero and clean growth with the expectation of a 5-fold increase in solar deployment by 2035.

8. Need for the Development

- 8.1 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 as set out above.

- 8.2 Further, the Development is consistent with and supported by a body of legislation and policy, which is summarised below.

- 8.3 The Climate Change Act 2008 introduced the 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").
- 8.4 The Clean Growth Strategy 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.
- 8.5 The Clean Growth Strategy also confirms that the "Government want to see more people investing in solar without government support" (pages 95 and 96)
- 8.6 In May 2019, the Government announced a climate emergency. The Council declared a climate emergency on 16th July 2019 and published a Climate Change Strategy (September 2020 and updated in November 2022) which recognises that addressing the global climate emergency requires transformative change and immediate action by the Council.
- 8.7 The Government set out its aim for a "fully decarbonised, reliable and low-cost power system by 2035" in its Energy White Paper: Powering Our Net Future (December 2020), noting that "... 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.". The White Paper 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." (Page 45).
- 8.8 In October 2021, the Government published its 'Net Zero Strategy: Build Back Greener'. 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.
- 8.9 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, page 103), particularly land based renewable energy projects such as solar farms (paragraph 36, page 103) 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, page 102).
- 8.10 The Development will produce and deliver renewable energy to the grid, making a material contribution to both sources of renewable energy and its generation. The detailed reports supporting the Application, and a balancing of local and national planning policies together with the introduction of appropriate mitigation measures, where relevant, mean that the Development will contribute to net zero goals while being sympathetic to the interests of the local community and the sustainability of the local environment.
- 8.11 In response to the rising cost of energy and the corresponding energy crisis caused by the Ukraine war, the Government updated its British Energy Security Strategy in April 2022, and in relation to solar it expects a five-fold increase in generation capacity by 2035. In "Powering Up Britain" (March 2023) it is recognised that "Solar has huge potential to help us decarbonise the power sector. We have ambitions for a fivefold increase in solar by 2035, up to 70GW, enough to power around 20 million homes. We need to maximise deployment of both ground and rooftop solar to achieve our overall target. Ground-mount solar is one of the cheapest forms of electricity generation and is readily deployable at scale. Government seeks large scale solar deployment across the UK, looking for development mainly on brownfield, industrial and low/medium grade agricultural land. The Government will therefore not be making changes to categories of agricultural land in ways that might constrain solar deployment". It is clear that the deployment

of ground mounted solar needs to be maximised if the fivefold increase in solar PV deployment is to be met.

- 8.12 The Energy Security Plan states that “Ground-mounted solar is one of the cheapest forms of electricity generation and is readily deployable at scale. The Government seeks large scale ground-mount solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. Solar and farming can be complementary, supporting each other financially, environmentally and through shared use of land. We consider that meeting energy security and climate change goals is urgent and of critical importance to the country, and that these goals can be achieved together with maintaining food security for the UK. We encourage deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement. The Government will therefore not be making changes to categories of agricultural land in ways that might constrain solar deployment. The Government considers that there is a strong need for increased solar deployment, as reflected in the latest draft of the Energy National Policy Statements”.
- 8.13 On 15th May 2024, the Secretary of State for Energy Security and Net Zero issued a Written Ministerial Statement (“WMS”), which is a material planning consideration. The focus of this latest statement is upon the following matters:
- (a) Food security as an essential part of national security;
 - (b) Energy security is being threatened by world events;
 - (c) Protecting the best agricultural land;
 - (d) Addressing cumulative impacts;
 - (e) Improving soil surveys; and
 - (f) Supporting solar on rooftops and brownfield sites.
- 8.14 Increased weight is to be given to higher grades of land within the category of Best and Most Versatile (“BMV”) land; i.e. greater weight would be attached to loss of Grade 1 land than it would to Grade 3(a). The highest quality land is least appropriate for solar development. The Development will not preclude use of land for grazing of smaller animals and/or poultry, grass cutting for conservation nor establishment of biodiversity gain measures.
- 8.15 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.
- 8.16 Paragraph 165 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 ...”. Paragraph 168 of the NPPF 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.
- 8.17 As set out in the Planning Statement and in response to the reasons for refusal of the Application, the impacts of the Development are, when weighed in the planning balance, acceptable and any negative impacts of the Development are outweighed by the benefits that would arise from it, particularly in terms of its contribution to net zero goals and policy goals as set out above.

- 8.18 The Development will be a temporary feature in the landscape, having a limited lifespan of 40 years, after which a decommissioning and restoration scheme will be implemented in accordance with relevant planning conditions, leaving in place a positive improvement to the Site in comparison to its current condition.
- 8.19 National Planning Practice Guidance ("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?" and notes that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. The guidance sets out matters which local planning authorities may wish to consider, including:
- (a) where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays;
 - (b) that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
 - (c) the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
 - (d) 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 zero.
- 8.20 All of the above matters are addressed in the Application documents which demonstrate that when the planning balance is applied, the Development is acceptable in planning terms.
- 8.21 National Policy Statement ("NPS") EN-1 (Overarching NPS for Energy) and NPS EN2 (NPS for Renewable Electricity Generation) set out national policy for energy infrastructure in the UK, and EN-1 confirms "we need to dramatically increase the volume of energy supplied from low carbon sources" (paragraph 2.3.5). If demand for electricity doubles by 2050, NPS 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" (paragraph 3.3.16). The Development will make a material contribution to this.
- 8.22 Although the Development is below the threshold for a Nationally Significant Infrastructure Project, it is on the cusp of that threshold, and consequently significant weight should be given to the NPSs. NPS 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 [Critical National Priority] 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 [Critical National Priority] Infrastructure and it should be progressed as quickly as possible." (paragraph 3.3.63).
- 8.23 In terms of the weight to be accorded to the overarching need for new renewable energy infrastructure, EN-1 states: "The overarching need case for each type of energy infrastructure and the substantial weight which should be given to this need in assessing applications, as set out in paragraphs 3.2.6 to 3.2.8 of EN-1, is the starting point for all assessments of energy infrastructure applications." paragraph 4.2.6).
- 8.24 NPS EN3-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." (paragraph 2.10.9). 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) (paragraph 2.10.10). NPS 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. (paragraphs 2.10.13- 2.10.14).

- 8.25 NPS EN-3 also explains a number of key considerations involved in the siting of a solar farm, and technical considerations for the Secretary of State to consider. These considerations are relevant to the Development, being on the cusp of the NSIP threshold. This includes "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" (paragraph 2.10.141). The Development will be limited 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.
- 8.26 NPS EN-3 also identifies relevant factors likely to influence site selection and design, including:
 - (a) Irradiance and site topography;
 - (b) Network connection;
 - (c) Proximity to dwellings
 - (d) Agricultural land classification and type
 - (e) Accessibility
 - (f) Public rights of way
 - (g) Security and lighting.
- 8.27 All of the above have been taken into account and subject to assessment in the Application.
- 8.28 In addition to the above referenced policies, further relevant energy legislation and policy includes:
 - (a) International Agreements and Obligations July 2024 | CC/AC/TK | P21-1380 26
 - (b) The COP21 UN Paris Agreement
 - (c) The Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (2021), related Press Release and Statements (2021) • IPCC Second AR6 Report (February 2022)
 - (d) IPCC Third AR6 Report (April 2022)
 - (e) IPCC AR6 Synthesis Report (March 2023) United Kingdom
 - (f) The UK's Sixth Carbon Budget: The UK's Path to Net Zero (December 2020)
 - (g) Department for Business, Energy and Industrial Strategy (BEIS) Outcome Delivery Plan (2021)
 - (h) The Ten Point Plan for a Green Industrial Revolution (2020)
 - (i) Industrialisation Decarbonisation Strategy (2021)
 - (j) Clean Power 2030 Action Plan

- 8.29 The Clean Power 2030 Action Plan published in December 2024 recognises in relation to "what a clean power system will look like" that "all routes to a Clean Power system will require mass deployment of offshore wind, onshore wind and solar" and involve an increase in solar generation capacity from 16.6GW to 47GW over the period of the Action Plan.
- 8.30 This Development will make a valuable and material contribution toward electricity demands and delivering on policy goals. The Climate Change Committee's June 2023 Progress Report (page 20) expressed concern about the rate of solar deployment, explaining that: "Renewable electricity capacity increased in 2022, but not at the rate required to meet the Government's stretching targets, particularly for solar deployment. Given short lead-times, rapid deployment of onshore wind and solar could have helped to mitigate dependence on imported gas during the fossil fuel crisis" and that "Both onshore wind and solar deployment are progressing more slowly than offshore wind, in part due to barriers in the planning system, despite being amongst the cheapest forms of electricity generation...In 2022, 0.7GW of solar was deployed...The deployment of solar capacity is significantly off-track to meet the Government's target of 70GW by 2035. An average annual deployment rate of 4.3GW is required to deliver 70GW of solar by 2035." (page 204 and 205). The 2024 Progress Report notes as a priority action that the UK "should now be in a phase of rapid investment and delivery. Yet almost all our indicators for low-carbon technology roll-out are off track, with rates needing to significantly ramp up", including by 2030 "solar installations must increase by five times" annually (Chapter 1). This emphasises the need for the Development.
- 8.31 Whilst the Council have declared a climate change emergency, policies in the development plan do not allocate or confirm that any sites are suitable for renewable energy schemes. This means that all renewable energy project planning applications will be speculative, raising a barrier to successful deployment in the face of statutory net zero targets. The substantial and urgent need for renewable energy is clearly established in national planning policy and is a material consideration which should be given substantial weight

9. Other material considerations

Site Selection

- 9.1 The Site was selected through an extensive criteria based search exercise (see paragraph 5.1.1 of the Planning Statement). A range of technical, environmental and economic factors are considered when assessing a site for ground-mounted solar development including BESS. Key factors for consideration include:
- (a) Availability and proximity of the local distribution network (grid);
 - (b) Solar irradiation levels;
 - (c) Proximity to local population;
 - (d) Topography;
 - (e) Field size and shape;
 - (f) Potential for overshadowing;
 - (g) Development Plan Policy;
 - (h) Access;
 - (i) Agricultural land quality;
 - (j) Landscape designations;
 - (k) Nature conservation and potential for enhancement;

- (l) Flood risk; and
 - (m) Land availability.
- 9.2 An important aspect of solar farm and BESS development is having access to the local distribution network, or 'grid'. To export electricity generated by a solar farm there must be sufficient capacity on the network to accommodate the additional power from the development. If there is insufficient capacity or the distribution network infrastructure is substandard the network will fail.
- 9.3 As part of the grid application process, the distribution network operator (DNO) provides a point of connection on the network or grid where the power from the solar farm and BESS must connect. It is important that these developments are close to the point of connection, due to:
- (a) Excessive costs of the cable and the trenching works;
 - (b) Requirement for easements to enable the crossing of third-party land, and necessary works in the highway which may disrupt local communities; and
 - (c) Voltage drops and unwanted energy losses resulting from long cable runs which cause further difficulties for the distribution network operators.
- 9.4 The industry-standard approach is to secure sites within 3.5km of a grid connection. The cable run from the deployment area to the point of connection is less than 1.5km, or circa 1km 'as the crow flies'.
- 9.5 Consideration of land closer to the point of connection has been given but discounted as there are significant areas of higher flood risk, proximity to built-up areas and limited availability of landowners willing to lease their land.
- 9.6 UK irradiation levels are illustrated in Figure 5.1 of the Planning Statement. This shows that the area around Newark receives good irradiation levels. This presents a particularly favourable area for solar development as it allows for higher electricity generation.
- 9.7 The nearest residential properties to the Site are located along Broadgate Lane, located north east of the Site. Although it was not possible to be distant from these properties, the PV panel deployment area has been moved approximately 75m away from residential property boundaries. In addition, a bund and planting are proposed as part of the Development to provide additional screening from Broadgate Lane properties.
- 9.8 The low height of the PV panels (2m above ground level), the proposed screening landscaping and the flat topography means that longer distance views from nearby villages are limited as confirmed in the Landscape and Visual Impact Appraisal.
- 9.9 All the Site is flat, with little or no gradient and so is well suited to the Development. Sites with numerous smaller fields including multiple field boundaries, such as hedges, fencing and ditches affect the overall amount of land required. The deployment area for the Development of circa 65ha comprises 3 large fields and part of a fourth field, all of which have minimal obstructions which allows a more efficient use of land.
- 9.10 The Site will be accessed from the A617 via an improved field access. The Transport Statement demonstrates that there are no collision trends, clusters of collision or collisions with common causality on the highway network surrounding the Site which would give rise to any highway safety concerns.
- 9.11 The Site is not subject to any national or local level landscape designations. Further, no national or international designations for ecology are located on or near to the Site.

- 9.12 The Site is predominantly located within Flood Zone 1, with isolated areas of Flood Zone 2 and therefore considered to be at little or no risk of fluvial flooding. The access track is partially within Flood Zone 3.
- 9.13 The Site was assessed as having a high proportion of best and most versatile agricultural land. However, as demonstrated in Section 5.2 of the Planning Statement it is not possible to use land that was of a lower grade due to other environmental constraints.
- 9.14 The Site is deliverable as it is available now and offers a suitable location for development now. The Site is also developable as it is in a suitable location and can viably be developed and will be used to deliver an economically viable Development. The Development and the selection of the Site is also consistent with development plan policies and relevant national planning policies as set out in the Planning Statement and this Statement of Case.

Ecology and Biodiversity

- 9.15 The Development will not lead to any adverse direct or indirect impact on non-statutory designated sites, and the majority of boundary habitats will remain unaffected during both the construction and operational phases save for the purposes of providing a vehicular access, for which compensation measures will be implemented. A number of enhancement measures will also be implemented throughout the Site as set out in the Planning Statement. Further a potential 61% of biodiversity net gain will be delivered in addition to 16% additional hedgerow units.
- 9.16 The Appellant notes that the NSDC Ecologist concludes that the proposed mitigation and compensation measures are all appropriate and would make the Development acceptable in planning policy terms.
- 9.17 The Planning Officer confirms in the Committee Report that:

"7.4. The District Council's commitment to tackling climate change is set out in Core Policy 10 which states that the Council is committed to tackling the causes and impacts of climate change and to delivering a reduction in the District's carbon footprint. This provides that the Council will promote the provision of renewable and low carbon energy generation within new development. The proposed solar farm will produce 49.9MW of renewable energy and include a BESS element with a capacity of 50MW. Core Policy 10 then signposts to Policy DM4 which states that permission shall be granted for renewable energy generation development, as both standalone projects and part of other development, and its associated infrastructure where its benefits are not outweighed by detrimental impact from the operation and maintenance of the development and through the installation process upon various listed criteria. The criteria include landscape character from the individual or cumulative impact of the proposals, heritage assets and their setting, amenity including noise pollution, highway safety and ecology of the local and wider area".

"7.126 Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced".

"7.139 The Biodiversity and Ecology Lead Officer welcomes the BNG and advises that a different seed mix could result in a much more diverse grassland over a significant part of the application site and make the area of greater value for invertebrates although acknowledges that it would not necessarily increase the BNG value (and is not mandatory)".

"7.140 Whilst the visual impact of the proposed form, layout and appearance of the plant and equipment would be largely negative, the proposals would also provide opportunities to secure net gains for biodiversity and wider environmental enhancements on other parts of the site over and above the existing scenario and proven gains, as outlined in the NPPF".

"7.142 Natural England also do not object to the proposals, confirming that the proposed development would not have significant adverse impacts on designated sites".

"7.143 Whilst some harm is inevitable, subject to conditions requiring development to take place in accordance with the Landscape Mitigation Plan, a further condition requiring a Construction Environmental Management plan and a requirement to comply with the recommendations set out in the Ecological Appraisal, it is considered that the proposed development could be acceptably mitigated in visual, landscape character and biodiversity terms over time. As such, it is considered that the proposals would accord with Core Policy 12 of the Core Strategy together with policies DM5 and DM7 of the DPD".

- 9.18 Core Policy 10, referred to by the Planning Officer states that the Council will work with partners and developers to promote energy generation from renewable sources, where it is able to demonstrate that its adverse impacts have been satisfactorily addressed. The Appellant has fully assessed impact and introduced relevant mitigation measures, including through a Landscape Masterplan. This is also consistent with Core Policy 9 which requires that a high standard of sustainable design will be required that protects and enhances the natural environment and contributes to and sustains its rich local distinctiveness. The proposed layout of the Development takes into consideration the context of the surrounding area, and incorporates a sensitive and extensive scheme of landscaping together with relevant enhancements and the retention of trees and reinforcement of hedgerows, all of which are relevant to local ecology and are consistent with the design requirement of Policy DM5 which states that "natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced". Further, this is consistent with Policy DM7 which requires that "new development, in line with the requirements of Core Policy 12, should protect, promote and enhance green infrastructure..." and Core Policy 12 in relation to which the Council will "seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity...". As stated above biodiversity net gain significantly in excess of statutory requirements is also being provided.
- 9.19 The need for the Development as set out above at paragraph 8 taken together with the enhancements set out above is underpinned by the presumption in favour of sustainable development set out in Policy DM12 which states "a positive approach to considering development proposals will be taken that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Where appropriate, the Council will work pro-actively with applicants jointly to seek solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions within the district". The refusal of the Application is inconsistent with the findings and recommendation of the Planning Officer and the terms of Policy DM12.
- 9.20 All relevant matters are addressed in detail in the documents referenced in the table at paragraph below.

Document	Reference
Planning Statement	Paragraphs 4.2, 6.4.5 and 6.4.8
Ecological Appraisal dated September 2023	
Amended Core Strategy	Spatial Policy 3 – Rural Areas Core Policy 9 – Sustainable Design Core Policy 10 – Climate Change Core Policy 12 – Biodiversity and Green Infrastructure

DPD	Policy DM4 – Renewable and Low Carbon Energy Generation Policy DM5 – Design Policy DM7 – Biodiversity and Green Infrastructure Policy DM10 – Pollution and Hazardous Materials Policy DM12 – Presumption in Favour of Sustainable Development
BNG Report	
Bird Reporting	
Agricultural Land Impact Assessment January 2024	
Applicant's response to Natural England consultation Comments (undated)	

Landscape and Visual Impact

- 9.21 The effects of the Development on the landscape character are restricted to the Site and the immediate context, which includes adjacent fields to the south west, west, north and northwest of the Site area only. As the Site comprises an existing commercial arable farm and is surrounded by landscape features, such as woodland, which limit the scale of effect on the wider area of the character area and study area, and landscape effects are restricted to the Site and immediate adjoining areas forming the prevailing setting to the Site.
- 9.22 Biodiversity and landscape enhancements (as set out in the Landscape Masterplan) are at the forefront of the Development. In addition to land between and beneath the panels, there will be some areas of non-development land located within the Site that will be brought under formal management for the life of the Development.
- 9.23 The Landscape and Visual Impact Appraisal and ecology and nature conservation chapters of the Planning Statement and Application bundle provide full details of the enhancement proposals, but in summary these include:
- (a) Where solar panels are being installed, a buffer of a minimum 7m is present between the woodland and hedgerows. This will ensure woodland is protected and retained;
 - (b) All existing boundary hedges will be allowed to grow to at least 3m.
 - (c) Semi Native low scrub planting will be implemented along the proposed bunds and the eastern corner of the Site,
 - (d) Beneath the panels a low maintenance grass mix will be provided for added ecological benefit, a tussock grassland mix, suitable for ground nesting birds.
 - (e) In the minimum 4m gap between the boundary hedges and site security fence, a General Purpose Meadow Mix will be used but left to grow longer to provide additional cover and wildlife habitat adjacent to woodland blocks and hedgerow corridors.

- (f) Existing hedgerows will be gapped up to strengthen the existing landscape structure, mitigate through views into and across the Site and where appropriate hedgerow trees planted to help screen long range views
 - (g) As all hedgerows are to be left for biodiversity purposes, annual cutting is not required, through active management there is the potential to cut at less frequent intervals providing improvements to screening and wildlife benefits.
- 9.24 A Landscape Masterplan sets out the proposals embedded in the Development (drawing HC1002/05/16).
- 9.25 Effects from the Development upon landscape character are restricted to the Site and immediate context which are inclusive of adjacent fields to the south west, west, north and northwest of the site area only.
- 9.26 The Site is comprised of an existing commercial arable farm surrounded by mature landscape features which limit the scale of effect upon the wider area of the character area and remainder of the study area. Landscape effects are restricted to the Site and immediately adjoining areas forming the prevailing setting to the Site only. The Development will have minimal effect upon the existing landscape structure but will be placed within it upon arable fields.
- 9.27 The level of landscape effect is determined by consideration of the landscape sensitivity and the magnitude of landscape effect. With reference to the conclusions of the LVIA, a Medium landscape sensitivity and a Medium magnitude of change, the Development is expected to result in a Moderate level of landscape effect overall, being 'Not Substantial' landscape effects.
- 9.28 The visual assessment in the LVIA demonstrates that the area over which the Development would be visible from would be considerably smaller in reality than illustrated by the ZTV. This is due to localised reductions where intervening vegetation not included as visual barriers in the model would reduce the extent and number of panels visible. Visibility is generally very localised to the areas immediately adjoining the Site boundary only. Visibility of the Development (up to 2m high solar panels and 3m BESS infrastructure with fencing of between 2-4m) is screened by a combination of rural fringe undulating topography, mature vegetation around the Site and the limited number of receptors. The two nearby villages of Kelham and Averham are both well screened by vegetation within the Site's immediate context so that views do not extend beyond the very edges of the settlement facing towards the Site (up to circa 200m).
- 9.29 With regard to residential receptors and settlements there is only one residential receptor (single detached property) which has the potential to be subject to substantial visual effects prior to any mitigation measures being implemented. Most available views from properties will be partial and or glimpsed views from first floor level due to garden and site boundary vegetation effectively screening ground floor views. The majority of the other properties assessed were found to experience no more than a Minor magnitude of visual effect which is a 'Not Substantial' level of effect with some also Neutral and subject to No Change. The nearby villages of Kelham and Averham have very limited visibility towards the site and their nucleated settings would not be subject to any substantial changes. Screening from the north would be created by the introduction of a bund at the northern end of the Site.
- 9.30 With regard to recreational routes and recreational destinations, no substantial visual effects are concluded for any vehicle users within the study area, with visibility to the proposed development limited from surrounding transport routes.
- 9.31 Road users will experience Moderate-Major effects at Year 1 when passing the Site to the immediate east on A617 for a 500m section of the route due to some breaks in the roadside hedgerows. These effects would reduce to at most Moderate once the mitigation hedgerow at the east side of the deployment matures which will substantially screen low level views into the Site from the road corridor. Although walkers will still be able to see over into the Site, the Development will not appear overbearing with views to distant woodland still remaining intact.

- 9.32 The viewpoint assessment considered a range of representative viewpoints within the ZTV and 2.5km study area. These demonstrated that the largest magnitude of effects (High) would occur for Public Rights of Way users from Viewpoint 3 within the Site followed by Viewpoints 4 and 5 adjacent to the Site where road users would experience a Medium-High Magnitude (Year 1 only) from the road corridor to the east.
- 9.33 It is unavoidable that footpath NT Kelham FP 4 which heads through the Site (VP3), crossing the deployment area, along the existing access track between the northern and central fields will experience a High magnitude of visual change leading to 'Substantial' visual effects. These effects are however limited to the obstruction of ground cover and low level vegetation at the far sides of the site, by the rows of arrays. But views to distant woodland are retained with only partial obstruction of views to the foot of woodland on the nearby embankment at Kelham Hills, such that the defining visual character enclosing the site is largely retained. The effects whilst considered long term (40 years) would also be reversible upon decommissioning of the scheme.
- 9.34 The remainder of the viewpoint locations (No.s 6-11) set away from the immediate setting circa 200m+ will be subject to a no more than Low magnitude of visual effects which are Minor effects and of a 'Not substantial' nature.
- 9.35 The compliance of the Development with Amended Core Strategy policies Core Policy 9 – Sustainable Design, Spatial Policy 3 – Rural Areas and Core Policy 13 – Landscape Character, in addition to DPD policies DM4 – Renewable and Low Carbon Energy Generation and Policy DM5 – Design is addressed in detail in paragraphs 6.4.5 and 6.4.8 of the Planning Statement as set out in Appendix 2 of this Statement of Case.
- 9.36 Consequently, the Development will have a minimal effect upon the existing landscape structure. The Development has been assessed as having only a Moderate level of landscape effect overall, being 'Not Substantial' landscape effects. These matters are addressed in detail in the documents referenced in the table at paragraph 9.42 below.
- 9.37 The Planning Officer confirms in the Committee Report that:
- "7.76 To inform our assessment of this application, the District Council has commissioned Influence Landscape Planning and Design Ltd to review the submitted Landscape and Visual Impact Assessment (LVIA) and supporting information. In respect of the potential impact on landscape character, they agree that there would be "a 'moderate' adverse effect on the site and the immediate environs, but effects will decrease with increasing distance from the site and having a minor adverse effect over the study area generally. With mitigation proposals in place as described in the LVIA addendum, this is considered to be a fair assessment overall for the purpose of this review."
- "7.143 Whilst some harm is inevitable, subject to conditions requiring development to take place in accordance with the Landscape Mitigation Plan, a further condition requiring a Construction Environmental Management plan and a requirement to comply with the recommendations set out in the Ecological Appraisal, it is considered that the proposed development could be acceptably mitigated in visual, landscape character and biodiversity terms over time. As such, it is considered that the proposals would accord with Core Policy 12 of the Core Strategy together with policies DM5 and DM7 of the DPD".
- "9.9 It is acknowledged that the change of use from agriculture to industrial use in this countryside location will result in major landscape and visual harm that would reduce over time to moderate. However, the majority of the proposal would be of limited height the majority of which could be mitigated by existing, enhanced and new planting. However, because of the lightweight visually permeable physical appearance and limited massing and siting within the site, it would be a reduced visual impact. Harm would be experienced locally by users of the public footpaths and at a further distance the occupants of nearby dwellings who presently enjoy the openness of the application site. The submission has sought to mitigate these impacts by the introduction of hedgerow planting, bunding to limit the visual impact and setting development back from boundaries. This would reduce the level of harm but it not considered would remove it altogether given that it would be experienced for a temporary period of 40 years. The proposal

is therefore considered to result in an overall moderate landscape/visual harm that would be higher during the construction period but is likely to reduce to a more moderate harm over time as planting matures. This is considered to represent one of the most significant impacts on the residential amenities of local residents and users of the public footpaths and as such is considered to be a moderate negative weighting".

"9.12 To conclude, the full benefits of supporting the national electricity grid with a greater renewable energy supply and the consequential additional benefits arising from that, together with the benefits of BNG, permissive footpath and some job creation is considered to outweigh the harm identified above in terms of loss of BMV land, landscape/visual impacts and the fire risk/fear of fire identified, and harm to heritage assets in the overall planning balance. Subject to conditions, the application has been found to be acceptable with regards to impact on ecology including nearby designated sites and biodiversity impacts on protected species subject to mitigation, passing the Exception Test, highway safety, archaeology, drainage, tree/hedgerow, air quality and noise".

9.38 Paragraph 187 of the NPPF confirms that planning decision should contribute to and enhance the natural and local environment.

9.39 The Appellant notes that Influence Landscape Planning and Design Limited, agrees with the Appellants conclusions as to the affects of the Development and the important role that the mitigation embedded in the design of the Development will play in making the Development acceptable in planning terms..

9.40 Core Policy 10, referred to by the Planning Officer states that the Council will work with partners and developers to promote energy generation from renewable sources, where it is able to demonstrate that its adverse impacts have been satisfactorily addressed. The Appellant has fully assessed impact and introduced relevant mitigation measures, including through a Landscape Masterplan. This is also consistent with Core Policy 9 which requires that a high standard of sustainable design will be required that protects and enhances the natural environment and contributes to and sustains its rich local distinctiveness. The proposed layout of the Development takes into consideration the context of the surrounding area, and incorporates a sensitive and extensive scheme of landscaping together with relevant enhancements and the retention of trees and reinforcement of hedgerows, all of which are relevant to local ecology and are consistent with the design requirement of Policy DM5 which states that "natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced". Further, this is consistent with Policy DM7 which requires that "new development, in line with the requirements of Core Policy 12, should protect, promote and enhance green infrastructure..." and Core Policy 12 in relation to which the Council will "seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity...". As stated above biodiversity net gain significantly in excess of statutory requirements is also being provided.

9.41 The need for the Development as set out above at paragraph 8 taken together with the enhancements set out above is underpinned by the presumption in favour of sustainable development set out in Policy DM12 which states "a positive approach to considering development proposals will be taken that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Where appropriate, the Council will work pro-actively with applicants jointly to seek solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions within the district". The refusal of the Application is inconsistent with the findings and recommendation of the Planning Officer and the terms of Policy DM12.

9.42 Table:

Document	Reference
Planning Statement	Paragraph 4.3, 6.4.5 and 6.4.8

Landscape and Visual Impact Assessment dated 2023 and June 2024 Addendum and Photomontages	
Landscape Masterplan HC1002/5/16 Rev 0	
Landscape Mitigation HC1002/02/16 Rev 2	
Amended Core Strategy	Core Policy 9 – Sustainable Design Core Policy 10 – Climate Change Spatial Policy 3 – Rural Areas Core Policy 13 – Landscape Character
DPD	Policy DM4 – Renewable and Low Carbon Energy Generation Policy DM5 – Design

- 9.43 Since the date of the Landscape and Visual Impact Assessment, the NPPF has been updated. The updated NPPF does not make any material changes in respect of landscape and visual impact matters. The table below shows the corresponding updated paragraphs:

NPPF at October 2023	Current NPPF
Para. 174	Para. 187

Archaeology and Heritage

- 9.44 No Scheduled Ancient Monuments (SAM) or listed buildings fall within the Site. One SAM is located c. 400m to south in Averham village and 21 listed buildings were noted in the 1km study area. The Kelham Conservation Area is adjacent to the Site to the east, the Averham Conservation Area is located 100m to the south of the Site.
- 9.45 The Desk Based Assessment recognises that the River Trent floodplain was inhabited during prehistoric chronologies. Furthermore, Roman occupation of the area away from the floodplain west of Kelham – is also evidenced and imprinted on the land in the form of numerous cropmarks recorded by the National Mapping Programme and by previous geophysical initiatives. While the date and function of many cropmarks has yet not been proven, their value must be considered as a whole as they represent the remains of past landscapes. Therefore, the value is likely to be High. As a result, further investigation was necessary.
- 9.46 Following a geophysical survey and evaluation trenching a sympathetic design has been proposed which allows panel deployment over the majority of the Site. However, some areas of mitigation are required to ensure that archaeology is not adversely affected.
- 9.47 The Appellant notes the representation made by NDCS Conservation, which states "The harm in all cases is judged to be at the lower end of less than substantial and the information in the Addendum to the HIA has not changed this assessment. This does not necessarily constitute an objection from Conservation, who advise that the harm to heritage assets be given the appropriate consideration in the planning balance against the public benefits of the scheme".

- 9.48 The Appellant also notes comments by the NSDC Archaeological Adviser, which sets out proposals as to a mitigation strategy, which is consistent with the approach taken by the Appellant in relation to identifying mitigation areas within the Site. The design of the proposed Development includes embedded mitigation to minimise heritage and archaeological impact. No further mitigation is required.
- 9.49 The proposed Development lies in the vicinity of numerous heritage assets. A Heritage Impact Assessment concluded that two of seven heritage assets identified (The Old Rectory and Averham Park) would be subject to negligible significant impact and five of the seven (Averham Conservation Area, Kelham Conservation Area, Kelham Hall, the Church of St. Wilfrid, Averham Park House, and South Farm) would be subject to Minor impact. These impacts are less than substantial and suitable mitigation is embedded in the design of the Development as set out in paragraph 8 of the Heritage Impact Assessment dated August 2023.
- 9.50 The Planning Officer confirms in the Committee Report:
- "7.124 The Council's Archaeology Consultant has advised that whilst this may not preclude the proposed development, further evaluation is required to determine the full extent of archaeological remains and provide an accurate basis for a programme of archaeological mitigation work. Mitigation work is likely to include open area excavation or preservation in situ by complete avoidance of the archaeologically sensitive areas. The Council's Archaeology Consultant raises no objection to the application subject to the further work being required by planning condition.
- 7.125 Overall, subject to conditions, the proposal is not considered to result in any adverse impact upon archaeological remains in accordance with Policies CP14 and DM9".
- 9.51 Core Policy 14 states that the Council will work with partners and developers in order to secure: the continued conservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment....[and] The preservation and enhancement of the special character of the Conservation Areas...". The Heritage Impact Assessment established that the Development would have a negligible significance of impact on two assets (The Old Rectory and Averham Park), a minor impact on five assets (Averham Conservation Area, Kelham Conservation Area, Kelham Hall, the Church of St. Wilfrid, Averham Park House, and South Farm) and that these impacts are less than substantial. Further, the design of the Development includes embedded mitigation and the Appellant notes that no further mitigation is recommended.
- 9.52 Policy DM9 requires that development should take account of the distinctive character and setting of conservation areas and will require justification in accordance with the aims of Core Policy 14. The Planning Officer confirms in the Committee Report that:
- "7.98 However, while generally there are no obvious landmark features to identify the village in distant views, Conservation has observed that the church tower at Averham is visible from the east to west footpath across the application site and in these views the church tower does act as a way finder for the CA. The HIA Addendum states that views from this footpath at the point as identified previously by Conservation are screened by hedgerows, nevertheless a site visit (accompanied by the Agent and Case Officer) was undertaken by Conservation in July 2022 where the views of the church tower were visible at some point on this footpath, so the potential for impact remains a possibility and in these views, however limited, there is likely to be some harm to the setting of the Averham Church and the CA through an altered foreground of modern energy infrastructure within the view. However, in these views the existing and further proposed additional green screening to this path would further limit opportunities to see the church tower and CA, so it is accepted that the harm in this aspect would be limited and at the lower end of less than substantial. In conclusion, there may be limited intervisibility with the taller elements of the proposal from the northern side of the CA, more so from School Farm area and the rear of Pinfold Lane and Pinfold Cottage than from anywhere else, the limited possibility of some restricted intervisibility from the church yard, and limited possibility of largely mitigated impact in longer distance views looking back towards the village and its church tower, introducing a modern and incongruous new element to the otherwise rural farmland setting. The HIA

Addendum has confirmed that this impact includes all the taller elements of the scheme, except the masts. Given the mitigating factors explored above this harm would be at the lower end of less than substantial to the overall significance of Averham CA".

- 9.53 The Development is consistent with the development plan policies, and an extensive evaluation through the Heritage Impact Assessment and an a scheme of archaeological evaluation has significantly increased an understanding of the Site. This has also informed the design of the Development, such as the use of non-intrusive ground mounts for the panels for targeted areas on the Site and strategic bunding and screening planting. The embedded mitigation minimises the potential impact to heritage receptors.
- 9.54 All relevant archaeology and heritage matters are addressed in detail in the documents reference in the table below.

Document	Reference
Planning Statement	Paragraph 4.4, 6.4.5 and 6.4.8
Geophysical Survey dated December 2022	
Desk Based Assessment dated September 2023	
Heritage Impact Assessment dated August 2023 and January 2024 Addendum	
Archaeological Evaluation dated August 2023 and December 2023	
Amended Core Strategy	Spatial Policy 3 – Rural Areas Core Policy 14 – Historic Environment Policy DM4 Renewable and Low Carbon Energy Generation
DPD	Policy DM9 – Protecting and Enhancing the Historic Environment

- 9.55 Since the date of the Desk Based Assessment and Heritage Impact Assessment, the NPPF has been updated. The updated NPPF does not make any material changes in respect of heritage matters. The table below shows the corresponding updated paragraphs:

NPPF at August 2023	Current NPPF
Para 189	Para. 202
Para. 194	Para. 207
Para. 200	Para. 213
Para. 202	Para. 215

Definition of "Significance (for heritage policy): the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting	Definition of "Significance (for heritage policy): The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance
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Noise Impact

9.56 The noise contribution from the maximum operation of the Development on the Site will be below representative background sound levels during the daytime and early morning periods. During the night-time under maximum operational noise conditions, the noise level will be well below night-time recommended limits. These matters are addressed in detail in the documents referenced in the table at paragraph 9.60 below.

9.57 In relation to the Development, mitigation will include the installation of a 4m high acoustic fence between the battery units and the nearest noise-sensitive receptors and the installation of acoustic enclosures to transformers. A Construction Environmental Management Plan will also be implemented, controlling the environmental impacts of the construction phase of the Development.

9.58 The Planning Officer confirms in the Committee Report:

"7.4. The District Council's commitment to tackling climate change is set out in Core Policy 10 which states that the Council is committed to tackling the causes and impacts of climate change and to delivering a reduction in the District's carbon footprint. This provides that the Council will promote the provision of renewable and low carbon energy generation within new development. The proposed solar farm will produce 49.9MW of renewable energy and include a BESS element with a capacity of 50MW. Core Policy 10 then signposts to Policy DM4 which states that permission shall be granted for renewable energy generation development, as both standalone projects and part of other development, and its associated infrastructure where its benefits are not outweighed by detrimental impact from the operation and maintenance of the development and through the installation process upon various listed criteria. The criteria include landscape character from the individual or cumulative impact of the proposals, heritage assets and their setting, amenity including noise pollution, highway safety and ecology of the local and wider area".

"7.170 It is stated that rating levels due to noise from the development would not exceed the respective background sound levels at the nearest, and therefore all noise sensitive receptors, during daytime and night-time periods. During the construction period, it is predicted that construction noise would indicate no significant impacts and best practicable means would be applied. In addition, the maximum levels of vibration during the construction phase would be below the threshold of perceptibility. The Council's Environmental Health officer notes the conclusion of the report and states that this is subject to the site being laid out as specified in the report, along with acoustic barriers and this should be a condition of any permission. On this basis, no objection is raised.

7.171 It is the construction phase of the development (6 months) that is likely to have a much greater impact on residential amenity than the operational phase. Although an Outline Construction Environmental Management Plan has been submitted, there are no specific details relating to noise control and mitigation measures, so this will require the imposition of a condition. It currently states core working hours are proposed to be 07:00 until 19:00 weekdays

and 08:00 to 13:00 on Saturdays (not on Sundays or bank holidays). Delivery times also reflect these times. Start up and close down periods for an hour either side is proposed but when no plant or machinery would be used".

"7.174 Whilst it is acknowledged that the construction phase of the development has a significantly greater capacity to negatively impact on the amenities of local residents, this could be mitigated by the details of a Construction Management Plan. Once operational, given no impact on air quality would result and that light and noise emissions, could be controlled by conditions, it is not considered that the proposal would have a significant adverse impact on neighbouring land uses in accordance with the aims of the NPPF and Policy DM5 of the DPD".

"9.11 Neutral impacts include highway safety, flood risk, archaeology, drainage, biodiversity impacts on protected species subject to mitigation, air quality and noise which are matters that can be acceptably controlled through the imposition of conditions".

"9.12 To conclude, the full benefits of supporting the national electricity grid with a greater renewal energy supply and the consequential additional benefits arising from that, together with the benefits of BNG, permissive footpath and some job creation is considered to outweigh the harm identified above in terms of loss of BMV land, landscape/visual impacts and the fire risk/fear of fire identified, and harm to heritage assets in the overall planning balance. Subject to conditions, the application has been found to be acceptable with regards to impact on ecology including nearby designated sites and biodiversity impacts on protected species subject to mitigation, passing the Exception Test, highway safety, archaeology, drainage, tree/hedgerow, air quality and noise".

9.59 Policy DM10 requires that where development proposals involve the potential for pollution they should take account of and address their potential impact in terms of health, the natural environment and general amenity on neighbouring land uses (amongst other factors). This would include noise from both the construction and operational phases of the Development. As set out above, a number of mitigation measures will be introduced, including the production of a final Construction Environmental Management Plan as a condition of the grant of planning permission.

9.60 Table:

Document	Reference
Planning Statement	Paragraph 4.5 and 6.4.8
DPD	Policy DM4 – Renewable and Low Carbon Energy Generation Policy DM5 – Design Policy DM10 – Pollution and Hazardous Materials
Noise Impact Assessment dated 10 October 2023	
Transport Statement October 2023	
Construction Traffic Management Plan June 2024	
Outline Construction Environmental Management Plan October 2023	

Flood Risk

9.61 There are no records of the Site flooding and it will be at minimal risk of future flooding. Most of the Site is within Flood Zone 1 with a localised area of Flood Zone 2 along the eastern boundary and a small part of the Site access would fall within Flood Zone 3. The Development will not increase flood risk. The Lead Local Flood Authority had no objection to the Development subject to appropriate conditions being applied to the planning permission (as set out in the Committee Report). These matters are addressed in detail in the documents referenced in the table at paragraph 9.65 below.

9.62 The BESS is designed to remain fully operational during a flood event.

9.63 The Planning Officer gives detailed consideration to flood risk in the Committee Report, and confirms in particular that:

"3.4 It should be noted that the proposals have been amended to remove development in a field closest to the A617 public road (and to the south of Kelham House) as it would have potentially interfered with the flood mitigation measures associated with the A46 by-pass development presently being considered by the Planning Inspectorate".

"7.41 Core Policy 9 and Policy DM5 require that proposals pro-actively manage surface water and Core Policy 10 and Policy DM5 seek to mitigate the impacts of climate change through ensuring that new development proposals take into account the need to reduce the causes and impacts of climate change and flood risk. Policy DM4 is silent on flood risk.

7.42 Paragraph 161 of the NPPF states that the planning system should support the transition to a low carbon future, in a changing climate, taking full account of flood risk and that it should support renewable and low carbon energy and associated infrastructure.

7.43 The NPPF, Core Policy 10 and DM5 state that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere as set out in the application of the Sequential and Exception Tests.

7.44 Annex 3 (Flood risk vulnerability classification) of the NPPF identifies that essential infrastructure includes "essential utility infrastructure which has to be located in a flood risk area for operational reasons, including infrastructure for electricity supply including generation, storage and distributions systems; including electricity generating power stations, grid and primary substations storage; and water treatment works that need to remain operational in times of flood." The proposed Solar Farm and BESS therefore fall within the definition of essential infrastructure.

7.45 The application is supported by a site-specific Flood Risk Assessment (FRA) and Drainage Strategy prepared by KRS Environmental Limited (October 2023), which outlines the flood risk to the existing site and proposed development; the proposed surface water drainage for the site; the potential impacts of the proposed development on surface water drainage; and details of mitigation measures to manage flood risk. The report also considers the application of the Sequential and Exception Tests.

7.46 Paragraph 2.5 of the submitted FRA confirms that there are a number of drainage ditches located within the site. There are also several unnamed ponds within the vicinity of the site, and an unnamed watercourse running along the eastern and southern boundary, which is a tributary of the River Trent, which is located approximately 790m to the east of the site. Notwithstanding this, the submitted FRA confirms that the site has not flooded within the recent past".

"7.50 In terms of the effect of the development on flood risk, the submitted FRA concludes that the development would have no impact on flood risk and the overall direction of movement of water would be maintained within the site and surrounding area. In addition, there would be no net loss in flood storage capacity, and any changes in topography would be minor and not located within the floodplain.

7.51 The Environment Agency has considered the application and supporting FRA and raised no objections".

"7.54 Therefore, based on the applicant's search for and assessment of alternative sites, and considering the predominately low flood risk to the site as a whole, it is accepted that there are no 'reasonably available', lower-risk sites, suitable for the proposed development, to which the development could be steered".

"7.57 ...the submitted FRA includes a 'Risk Management' chapter that outlines how flooding sources would be mitigated on the site to manage and reduce the overall flood risk and ensure the development would be safe for its lifetime. This chapter confirms that in the event of a flood, the plant would be shut down and isolated from the power grid. In addition, buildings would be constructed to be resilient to floodwater. A Flood Plan would also be developed, so that all personnel would know what to do when a flood event is anticipated. It should be noted that the site would be unmanned for the majority of the time, except for occasional routing maintenance visits. Nevertheless, the submitted FRA confirms that a safe access and egress route would be maintained in accordance with relevant planning and Environment Agency guidance. Finally, it is confirmed that no works would occur within 9m of drainage ditches maintained by Trent Valley Internal Drainage Board".

"7.62 Public comments regarding panels increasing flood risk have been noted, however, the submitted Flood Risk Assessment has demonstrated that the development would not lead to flooding elsewhere and both the Local Lead Flood Authority and Environment Agency do not object to the proposals".

"9.11 Neutral impacts include highway safety, flood risk, archaeology, drainage, biodiversity impacts on protected species subject to mitigation, air quality and noise which are matters that can be acceptably controlled through the imposition of conditions".

9.64 The Appellant agrees with the Planning Officer's analysis of flood risk matters and the analysis of national and local planning policies. It is also the case that the Development complies with Core Policy 9 in terms of a sustainable design as it is an appropriate form and scale to its context, it proactively manages surface water run-off by discharging it via infiltration with a secondary option to discharge to a drainage ditch, at Greenfield runoff rates. The Flood Risk Assessment and Drainage Strategy details an Outline SuDS Strategy that would include permeable surfaces. The Lead Local Flood Authority has raised no objection subject to the imposition of appropriate conditions to secure a detailed surface water drainage scheme. This is also consistent with Core Policy 10 where the Council will promote energy generation from renewable sources where adverse impact have been satisfactorily addressed. There will in fact be no adverse impacts in relation to flooding as demonstrated by the Flood Risk Assessment and appropriate measures will be implemented as summarised in this paragraph.

9.65 Table:

Document	Reference
Planning Statement	Paragraph 4.6, 6.4.5 and 6.4.8
Amended Core Strategy	Core Policy 9 – Sustainable Design Core Policy 10 – Climate Change
DPD	Policy DM5 – Design Policy DM10 – Pollution and Hazardous Materials
Flood Risk Assessment and Drainage Strategy dated October 2023	

Agricultural Land Quality

- 9.66 The Site comprises primarily grade 2 and 3a agricultural land (92%), with a small element of grade 3b (8%). These matters are addressed in detail in the documents referenced in the table below and Site Selection is also addressed in detail in paragraph 9.1-9.14 of this Statement of Case. There is no dispute over land classification.

Document	Reference
Planning Statement	Paragraph 5.2, 6.4.5 and 6.4.8
Amended Core Strategy	Core Policy 9 – Sustainable Design
DPD	Policy DM8 – Development in the Open Countryside
Soil Resources and Management Kelham Solar Farm May 2024	
Soil Resources and Agricultural Quality Report date 19 September 2023	
Agricultural Land Impact Assessment dated January 2024	

Traffic and Transport

- 9.67 The Site will be accessed from the A617 via an improved field access. There are no collision trends, clusters of collisions or collisions with common causality on the nearby highway network. No highway safety concerns are raised. These matters are addressed in more detail in the documents set out in the table at paragraph 9.70 below.

- 9.68 The Planning Officer confirms in the Committee Report that:

"7.157 It is acknowledged that during the construction period, traffic levels to and from the site would increase considerably and may require additional traffic management measures, but this would be for a temporary period during the construction and decommissioning periods only. Overall, the proposed access arrangements are considered to be acceptable, subject to appropriate conditions, and there are no highway related objections to the proposed development. It is not considered that any adverse impact upon highway safety or efficiency would result in accordance with Spatial Policy 7 and Policy DM5 of the DPD"

- 9.69 Spatial Policy 9 is concerned with sustainable transport and states that development proposals should be appropriate for the highway network in terms of the volume and nature of traffic generated, and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected. Further, it requires that appropriate parking is provided and that vehicle traffic generated does not materially increase other traffic problems. This has been considered in detail by the Appellant in its Transport Statement and its engagement with relevant highway consultees in terms of the design of the access to the Site, amongst other considerations. There are no collision trends, clusters of collisions or collisions with common causality on the highway network surrounding the Site that would give rise to highway safety concerns. Temporary mitigation measures will be implemented during the construction phase (approximately 6 months) as set out in the Transport Statement. The Development is, therefore, from a traffic and transport impact perspective, acceptable in planning policy terms and having taken all other material considerations into account.

9.70 Table:

Document	Reference
Planning Statement	Paragraphs 4.6, 6.4.5 and 6.4.8
Amended Core Strategy	Spatial Policy 7 – Sustainable Transport
DPD	Policy DM4 – Renewable and Low Carbon Energy Generation Policy DM5 – Design
Noise Impact Assessment dated 10 October 2023	
Stage 1 Road Safety Audit Brief dated July 2023 and Report dated February 2024	
Transport Statement dated October 2023	
Second letter of comfort from National Highways (undated)	
Construction Traffic Management Plan June 2024	

9.71 Since the date of the Transport Statement, the NPPF has been updated. The updated NPPF does not make any material changes in respect of transport matters. The table below shows the corresponding updated paragraphs:

NPPF at October 2023	Current NPPF
Para. 110	Para. 115
Para. 111	Para. 116

Miscellaneous matters

9.72 A number of matters have not required detailed assessment and these are addressed at paragraph 4.9 of the Planning Statement.

9.73 An explanation of the site selection process and the justification for the selection of the Site is set out in detail at paragraph 5 of the Planning Statement and paragraph 9.1 – 9.14 of this Statement of Case. A key determinant in identifying the location and suitability of a solar farm is proximity to available grid capacity. Once grid capacity has been identified, the distribution network operator provides a point of connection. It is from this point onwards that the developer has some control to determine the best location for the solar farm. Distance from the point of connection, potential planning and environmental constraints and a willing landowner will then determine the location and extent of an application site. It is clear from the constraint plan and detailed analysis as set out at paragraph 5 of the Planning Statement, that there is no

unconstrained land within the search area that is of a lower Best and Most Versatile agricultural grade. As such is it considered that the Site is the most suitable site that can viably connect into the substation at Staythorpe.

- 9.74 A detailed appraisal of development plan policies in relation to all material issues is set out at paragraph 6.4.5 and 6.4.8 of the Planning Statement (appended to Annex 2 of this Statement of Case), and in relation to site selection and how this is balanced against "Policy DM8 – Development in the Open Countryside".
- 9.75 In relation to concerns about soil compaction a Soil Resources and ALC Report and Soil Management Plan and Soil Resources and Agricultural Quality Report were produced. These address the impact of the Development on soil at the Site and the management of the impact of the Development on soil, which will be neutral, and in the long term lead to improvements by the cessation or arable farming for energy crops.
- 9.76 In relation to concerns that permissive paths may have been removed from the Site, the Appellant confirms that permissive paths have in fact been added to the Development.

Representations

- 9.77 The Appellant notes that no objections were received from National Highways, NCC Lead Flood Authority, the Environment Agency, Natural England, NCC Rights of Way, Ramblers Association, Nottinghamshire Wildlife Trust, NSDC Environmental Health, Nottingham Fire and Rescue, Trent Valley Drainage Board, NSDC Ecologist, an external landscape advisor, NSDC Archaeological advisor. The comments made by consultees have been noted.
- 9.78 Representations were made by Averham Kelham and Staythorpe Parish Council objecting to the Development. In two rounds of consultation representations were received from members of the public. Following the second round of consultation after the design of the Development had been amended, there were 13 letters of support and 38 letters of objection. The main grounds of objection can be summarised as (i) loss of BMV land (ii) impact on soil (iii) impact of nearby projects on the highway (iv) impact on heritage assets (v) appearance of the Development within the landscape (vi) flood risk (vii) views from and use of public paths (viii) impact on ecology. The grounds of objection have been summarised in more detail in the Planning Officer's Committee Report, are addressed through the Application and its supporting documents, and addressed in this Statement of Case. All of the grounds of objection have been addressed through the reports produced in support of the Application.
- 9.79 In response to the objections raised, the Appellant agrees with the Planning Officer who notes in the Committee Report that national policy promotes the principle of a presumption in favour of sustainable development and that DPD Policy DM12 confirms that sustainable development is at the heart of development and is a golden thread running through decision making. This is also reflected in the "Principle of Development" section of the Planning Officer's report, where they confirm "In determining this application, it is necessary to balance the string policy presumption in favour of applications for renewable technologies against the environmental impact..." (paragraph 7.7).
- 9.80 As the Planning Officer notes (paragraph 7.17 of the Committee Report), the NPPF states that local planning authorities should give "significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future para 168(a)".

10. Rebuttal of Grounds of Refusal

Reason 1

- 10.1 The first reason for refusal is:

"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".

Summary

- 10.2 As set out at paragraph 9.75 above, the Appellant procured a "Soil Resources and Agricultural Quality" ("Soil Report") report dated 19 September 2023. This covered a survey area of five fields, all of which were in arable use at the time they were surveyed. At paragraph 3.4 of the Soil Report, the author concludes that "the agricultural quality of the land is primarily limited by droughtiness and wetness...land of grade 2 and 3 has been identified". 55% of the surveyed fields are Grade 2 which the author confirms "comprises medium loamy soils that have slight wetness limitations. The combination of moderately high topsoil clay content and slight drainage impedance means access restriction in wet years may affect cultivation/harvest timings". 37% of the surveyed fields are Grade 3a in relation to which the author states "this land grade comprises coarse, and medium loamy soils with gravel at moderately shallow depth...The land is limited by droughtiness restrictions, as the subsoils will store below optimum moisture for crop uptake, reducing average yields of arable crops".
- 10.3 The January 2024 Agricultural Impact Assessment confirms that the site comprises 71ha of agricultural land used for cropping winter wheat, barley, potatoes, sugar beet, parsnips and forage rye and maize, with 5-15% left uncropped for over five years due to poor soil fertility or conditions which have made the area unworkable (paragraphs 1.2 and 5). The assessment also concludes that "These soils are prone to the effects of a high water table, which makes Autumn and winter operations impossible, especially during wet seasons like they are experiencing this season. As the cropping year progresses not spring/summer the water table drops which means irrigation is required to get an economically viable yield especially for potatoes and sugar beet. The irrigation lagoon is used at the land off Broadgate road has a 45,000 cubic metre irrigation licence". Further, the author concludes "The proposed solar farm plan would also provide a stable income for the farms, diversifying from the unpredictable agricultural market, whilst contributing to the regions' green energy supply" (paragraph 5). This is in the context of the comments at paragraph 3 and 4 of the assessment, which sets out the challenging market conditions, including a 15-20% increase in costs relating to potato production, and the soaring price of energy, fuel and fertilisers, and the rising cost of living all contributing to rising input-costs. These make the agricultural industry unpredictable. Farms in the UK are also losing the EU's Common Agricultural Policy payments following Brexit, which at times accounted for up to three quarters of the Total Income from Farming in the UK.
- 10.4 The author of the assessment also notes that if the Site is used for a solar and BESS development, that improvements to biodiversity associated with it (which the Appellant has calculated to be 61%) would contribute to agricultural production (paragraph 6).
- 10.5 The conclusion of the assessment is that "there are no significant impacts on the region's Agricultural production". The agricultural production of the site contributed minimally to food production in the region and across the country. Additionally in recent years most of the land has been used to produce energy crops for Anaerobic Digestors, due to its unsuitability to grow crops for food" (paragraph 8).
- 10.6 Landowners are not required to actively farm agricultural land, and the cessation of arable farming would be a commercial decision for a landowner at any time. The Site will not be "lost" for agricultural uses, as it can be used for grazing, and mitigation and enhancement measures which are embedded in the design of the Development will improve the biodiversity of the Site and allow the land time to recover from its current use. There will be no loss or reduction of BMV land as a result of the Development.
- 10.7 As set out in detail in the Planning Statement, and as summarised above, both local and national policy, support renewable energy projects. In fact, none of the terms of DPD Policy DM8, which the Council reply on in support of Reason 1 preclude either explicitly or implicitly the development of agricultural land for sustainable development uses. Solar farms in particular will

typically be located in the open countryside and on agricultural land. As set out in paragraph 5 of the Planning Statement, site selection is guided by the availability of a grid connection, which is significantly restricted both in the area and nationally. In the case of the Development, a detailed site selection process was gone through and the only viable and available land was the Site. The reason for refusal is based on a misunderstanding of the economic realities of farming in the current economy, and projected long term challenges to the viability of farm businesses, and is based on a mis-conception that solar farms lead to the loss of agricultural land. Save for small areas of hard standing associated with the BESS development, there will be no loss of agricultural land, and the hard standing will be removed when the Development is decommissioned.

- 10.8 The Council have not set out any detail regarding the terms of DPD Policy DM8, or national policy that they say support the refusal of the Application. The Appellant has demonstrated through the Planning Statement, and the supporting reports produced with the Application, together with this Statement of Case, that the Development is consistent with the development plan policies when taken as a whole, and is consistent with national planning and energy policies.

Comments

- 10.9 Agricultural land is measured under a system of Agricultural Land Classification (ALC). This grades land based on the long-term physical limitations of land for agricultural use, including climate (temperature, rainfall, aspect, exposure and frost risk), site (gradient, micro-relief and flood risk) and soil (texture, structure, depth and stoniness) criteria, and the interactions between these factors determining soil wetness, droughtiness and utility. The system is described in Natural England's Technical Information Note TIN049 (2012). The Appellant commissioned a Soil Report (referenced above) and an Agriculture Impact Assessment to assess both the ALC and the impact of the Development on the agricultural use of the Site. Land falling into ALC Grades 1, 2 and Subgrade 3a is the "best and most versatile" (BMV) (as defined in the National Planning Policy Framework (2021), Annex 2). Natural England estimate that 42% of agricultural land in England is of BMV quality.
- 10.10 Policies DM 5, DM 8 and DM 12 do not reference agricultural land or its use for food or nonfood production. Policy DM 8 does, however, support proposals to diversify the economic activity of rural businesses where they contribute to the rural economy and are complementary and proportionate to the existing business.
- 10.11 The NPPF sets out, in paragraph 187 (b), that the economic benefits of BMV land should be recognised. Footnote 65, in the context of plan making in paragraph 188, advises that where significant development of agricultural land is involved, poorer quality land should be used in preference. There is no definition of what constitutes "significant" development.
- 10.12 NPS En-3 recognises that "The Powering Up Britain: Energy Security Plan" states that while large-scale ground mounted solar development is sought on low and medium grade agricultural land, it also sets out that solar and farming can be complementary, supporting each other financially, environmentally and through shared use of land, and encourages deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvements (paragraph 2.10.11). As set out in the Application documents, the Site has been used primarily for energy crops, and embedded in the design of the Development are measures that will lead to environmental benefits, especially in terms of biodiversity gain.
- 10.13 NPS EN-3 also recognises that "solar is a highly flexible technology and as such can be deployed on a wide variety of land types" (paragraph 2.10.28) and that "while land type should not be a predominating factor in determining the suitability of the site location" (2.10.29), applicants should, where possible use previously developed land, brownfield land, contaminated land and industrial land. Despite this, land values of such land will rarely be compatible with solar development as against other commercial developments such as warehouses. The primary choice of location for solar farms will invariably be on undeveloped

land. However, the development of ground mounted solar arrays is not prohibited on land of ALC Grades 1, 2 or 3a (paragraph 2.10.30), but the impacts must be considered.

- 10.14 Paragraphs 2.10.31 and 32 of EN-3 recognise that, at the NSIP scale (and the Development 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 to help minimise adverse effects on soil health. The Appellant has done so, although it should be noted that the Site is farmed primarily for energy crops. Paragraph 2.10.89 of EN-3 recognises the potential for solar farms to increase biodiversity value, as is the case with the Development.
- 10.15 The IEMA Guide “A New Perspective on Land and Soil in Environmental Impact Assessment” (February 2022) defines impacts for EIA purposes as “permanent, irreversible loss of one or more soil functions or soil volumes (including permanent sealing or land quality downgrading) ...” (Table 3, page 49). The IEMA Guide notes that this can include “effects from temporary developments”, which is defined as follows: “temporary developments can result in a permanent impact if resulting disturbance or land use change causes permanent damage to soils”. Therefore, in respect of the guidance, the “loss” of agricultural land is where there is an irreversible loss of agricultural land or a downgrading of ALC value through permanent damage to soils. This is not the case in relation to the Development.
- 10.16 The “Renewable and Low-carbon energy” section of the NPPG advises at 5-013-20150327 that particular factors a local planning authority will need to consider include whether the proposed use of agricultural land has been shown to be necessary and poorer quality land has been used in preference, and the proposed use allows for continued agricultural use.
- 10.17 A Written Ministerial Statement of 25th March 2015 states in relation to concerns about the use of high quality agricultural land that “in light of these concerns we want it to be clear that any proposal for a solar farm involving BMV land would need to be justified by the most compelling evidence”. The WMS does not set out new policy on food production, non-food production or the use of agricultural land, BMV or otherwise. This has recently been considered by an Inspector for a site at Penhale Moor, Cornwall (APP/D0840/W/23/3334658 – Appendix 3) where the Inspector has concluded that the “WMS does not, in my view, materially change the national policy position on the use of agricultural land for solar farming nor does it create a presumption against solar farming on agricultural or BMV land. What the latest WMS does is provide a context for decision in terms of food security in terms of maintaining the current level of domestic food production...” (paragraph 20). As stated above, the Site is used primarily for energy crops.
- 10.18 In appeal reference APP/C1570/W/23/3319421 (Appendix 4), the Inspector stated at paragraph 166 (with reference to the 2015 WMS) that in relation to a site containing 92% BMV land: “I recognise that the 2015 WMS requires the most compelling evidence for the development of solar farms on BMV. However, this must be read in light of more up to date events. This includes Parliament’s declaration in 2019 that the UK is facing a climate change emergency; the support in the NPPF, most recently amended in 2023, for renewable development; the statements in several policy documents on energy and climate change issued since 2015, as set out above; and the draft NPS EN-1 and EN-3. It must also be viewed against the increasing imperative to tackle climate change, and to meet the legally binding Net Zero targets. Together with the specific considerations in this case, I conclude that these factors provide the most compelling evidence to justify the use of BMV in this instance”.
- 10.19 Policy does not prohibit the use of BMV. It does advise that poorer quality land should be preferred, but if BMV is included the economic and other benefits need to be considered. The recent WMS (15th May 2024) re-states this policy position.
- 10.20 There is now a widespread acceptance that the installation of solar panels does not negatively affect land quality. For example: (i) in the decision on the Nationally Significant Infrastructure Project at Little Crow, Lincolnshire (Appendix 5), which included 36.6 ha of Subgrade 3a, the Secretary of State agreed with his Inspector that the effect would be “medium term, reversible, local in extent and of negligible significance during the operational phase with a moderate

beneficial effect for the quality of soils because intensive cropping would be replaced with the growing of grass" (para 4.50).

- 10.21 In the appeal decision for the solar farm at Bramley, Hampshire (APP/H1705/W/22/3304561 – Appendix 6) the Inspector, noting that 53% of the site was of BMV, stated (paragraph 58) "The agricultural land would not be permanently or irreversibly lost, particularly as pasture grazing would occur between the solar panels. This would allow the land to recover from intensive use, and the soil condition and structure to improve. The use of the soils for grassland under solar panels should serve to improve soil health and biodiversity and the proposed LEMP, which could be secured by a condition attached to any grant of planning permission, includes measures to improve the biodiversity of the land under and around the panels".
- 10.22 The decision in relation to the Longfield Solar Farm Development Consent Order of 26th June 2023 (Appendix 7), sets out the Secretary of State's agreement with his Examining Authority that the use of 150 ha of BMV, as part of a larger site, should be ascribed "a small amount of negative weight in the planning balance" (para 4.59). It was concluded that about 6 ha would be lost, and the rest would be lost temporarily.
- 10.23 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 – Appendix 8) 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).
- 10.24 In the appeal decision on land west of Thaxted of 18th December 2023 (APP/C1570/W/23/3319421 – Appendix 9), which involved 55 ha of BMV, the Inspector was found that the land would not be adversely affected except for areas of tracks and fixed infrastructure, and any woodland planting that is not removed at decommissioning. The Inspector noted, that whilst careful consideration needs to be given to BMV, none of the policy or guidance prohibits its use for large scale solar farms (paragraph 96) and the agricultural land quality of the majority of the site would not be affected (paragraph 112).
- 10.25 In the appeal decision for a 47MW solar farm at Little Cheveney Farm, Marden (APP/U2235/W/23/3321094 – Appendix 10), a site containing 47% BMV, 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).
- 10.26 In the appeal decision at Kemberton, Telford (APP/L3245/W/23/3329815 – Appendix 11) the Inspector noted that the piling "would cause minimal disturbance to the soil and the quality of the land" (which in that case was 29% Subgrade 3a) (paragraph 52). Overall he was satisfied that there would be no temporary or permanent loss of BMV (paragraph 54) and overall there was no conflict with the development plan or Framework (paragraph 60).
- 10.27 In the appeal decision at Penhale Moor, Cornwall (APP/D0840/W/23/3334658 – Appendix 12) the Inspector was considering a site with 31.3% BMV (16.2 ha). The decision was also post the 2024 WMS. The Inspector concluded that the 2024 WMS does not materially change the policy on the use of BMV, but rather provides a context for decisions.

- 10.28 In the appeal decision APP/P3040/W/23/3330045 (Appendix 13) Land East of Hawksworth and Northwest of Thoroton, Thoroton, Nottinghamshire, NG13 9DB dated 23 October 2024, the Inspector stated at paragraph 60, 63 and 70-76)

"60. The appeal site comprises 1.7 ha of grade 2 agricultural land and 33.7 ha is classified as grade 3a. Therefore, 38% of the site is classified as BMV agricultural land. The remainder comprises 54 ha (58%) of grade 3b and 3.9 ha (4%) of other land. In the revised Scheme B some areas within the appeal site would not be used for solar panels and so the appeal scheme would utilise 1.5 ha of grade 2 land and 28.7 ha of grade 3a land".

"63. The appellant's intention is to graze sheep within the solar farm.64 HTAG and others have concerns about animal welfare but that is a matter that would be the subject of other regulatory controls."

"70. There would be no insurmountable obstacles to grazing sheep within the proposed solar farm", and

"71. NPPF paragraph 180 b) provides that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the economic and other benefits of BMV agricultural land. Footnote 62, albeit in a reference to plans, states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. EN-3 has similar provisions.

72. More recent Government targets for renewable energy generation and policy for climate change are material considerations that limit the weight that can now be given to the WMS Solar energy: protecting the local and global environment dated 25 March 2015. WMS Solar and protecting our Food Security and Best and Most Versatile (BMV) Land (WMS), which was made on 15 May 2024, reflects current policy and guidance and does not introduce any new policy tests. The 2024 WMS refers to improving soil surveys but does not provide further guidance. In any event, the main parties in this appeal agree on the agricultural land classification of the appeal site.

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.

74. Subject to the imposition of appropriate planning conditions the solar farm could be decommissioned and restored with no permanent loss of agricultural land quality. Again, depending upon appropriate management, which could be the subject of a condition, soil quality and biodiversity could be enhanced by less intensive agricultural use over a 40-year period.

75. Notwithstanding the intention to graze livestock within the solar farm the proposal would result in a reduction in agricultural productivity from the appeal site for a period of 40 years. However, I find no conflict with LPP2 Policy 1 part 12, which expresses a preference for the use of lower quality over higher quality agricultural land.

76. Taking all these matters into account, I consider that using 30.2 ha of BMV agricultural land for renewable energy generation would be justified in the circumstances that apply here. Nevertheless, taking the appeal site out of arable production for 40 years would have some effect on agricultural productivity in the locality, albeit with negligible impact on food security considerations. I am not convinced that any soil regeneration benefits from low intensity agricultural use over the 40 years would outweigh this harm. Overall, I consider that the appeal scheme would result in an adverse effect of minor significance insofar as it would impact on agriculture, but find no policy conflict in this regard".

- 10.29 In Appeal Decision APP/B3030/W/23/3334043 (Appendix 19) for Planning Application 22/01840/FULM the Inspector concluded in relation to a site involving predominantly grade 3b, but partially grade 3a agricultural land that "The BESS would be decommissioned after 40 years and the land restored; an outline soil management plan has been produced and this would be developed as a requirement of the attached landscape condition prior to construction and adhered to during construction and reinstatement. A condition is attached requiring a decommissioning plan. The scheme demonstrates clear environmental benefits in terms of improved biodiversity, and community benefits in supporting the transition to low carbon energy generation" (paragraph 41). These are similar benefits to the Development.
- 10.30 It is widely recognised that putting arable land into long-term grassland has significant benefits for soil structure and health. The UK Food Security Report 2021 notes that, whilst grain is generally the most efficient form of production in terms of calories per hectare, it has a significant environmental impact "due to the lack of biodiversity in conventional grain fields, damage to soil through ploughing, environmental harms caused by fertilisers and pesticides, and the oil use embedded in fertilisers and field operations" and that the biggest medium to long term risk to the UK's domestic production comes from climate change and other environmental pressures like soil degradation, water quality and bio-diversity (Theme 2, key messages). These benefits have been recognised by most Inspectors and referenced in the decision notices referred to earlier.
- 10.31 There will be no significant loss of farmland at the Site as a result of the Development as this leads to very little land loss, limited to the bases of the infrastructure and the tracks, and those areas are capable of being restored fully at the decommissioning stage. Once solar panels have been installed the Site will still be capable of being farmed for sheep. However, policy does not require agricultural land to be farmed.
- 10.32 A Soil Management Plan ("SMP") will be provided prior to construction. This will describe the soils, construction and soil management practices. The SMP will explain the timing of operations and handling of soils when conditions are suitable. It will describe storage of the small volumes of soil moved for the construction of the fixed infrastructure. It will describe the decommissioning works and the replacement of soils following removal of the bases and tracks. Following decommissioning the limited areas disturbed will be restored back to their original soil profile and quality.

Conclusion

- 10.33 The Development will not lead to the loss of BMV land, or the loss of agricultural land used for food production. The use of the Site for growing primarily energy crops will cease. In combination with the cessation of use for arable farming, and the biodiversity gain embedded in the design, the improvements to ecology through measures such as enhancement of hedgerows, and the overarching environmental benefits in terms of the contribution made by the Development to the decarbonisation of energy production and the contribution to net zero, the benefits of the Development will more than outweigh any perceived affects on the Site as agricultural land. The Appellant's position is that there will be no affect on BMV, which will remain as such. Uses other than arable farming are supported by local and national policies, and landowners are not obligated to actively farm in any event.

Reason 2

- 10.34 The second reason for refusal is:

"The proposed development, when taken cumulatively with other renewable energy developments in the locality, will result in unacceptable harm to the 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".

Summary

- 10.35 The Appellant has carried out a detailed assessment of the impact of the Development on the landscape appearance of the local area through an LVIA. There are no Registered Parks and Gardens (RPG), Country Parks (CP) and specific landscape designations within the Local Plan/Development Framework such as Areas of Great Landscape Value (AGLV), Special Landscape Areas (SLA) or national landscape designations such as Areas of Outstanding Natural Beauty (AONB) and National Parks (NP).
- 10.36 The nearby built heritage sites including the settings of Kelham Hall and Kelham Country House within Kelham Conservation Area, which whilst locally and regionally important and valued are not landscape designated sites and due to high levels of screening have limited relationship to the Site. The Site area is not covered by any landscape specific local planning designations, applicable to landscape for example a 'Special Landscape Area'. There are no other landscape planning designations within the study area with the potential to be either directly or indirectly affected by the development
- 10.37 Mitigation is included in the Development as it is an integral part of the design and assessment process. The mitigation proposals incorporate features primarily for landscape and visual reasons but are additionally informed by the findings of the ecological and archaeological assessments where applicable.

Comment

- 10.38 The Landscape Character Assessment for the District of Sherwood and Newark forms part of the wider assessment for Nottinghamshire County. The LCA offers an objective methodology for assessing the varied landscape within Newark and Sherwood and gives a greater understanding of what makes the landscape within the District locally distinctive. The Site is predominantly located within the 'River Meadowlands LCT' landscape type with part of the site (north west corner, in the adjacent 'Village Farmlands LCT' Trent Washlands Policy Zone TW PZ 11: Cromwell, North and South Muskham, Kelham Averbham, Staythorpe and Rolleston Village Farmlands (Policy: Conserve and Create). This is a predominantly flat, large scale, arable landscape with large semi-irregular fields; often with low trimmed gappy hedgerows. Smaller fields of pasture / hay lie adjacent to settlements. The Landscape Sensitivity of Trent Washlands Policy Zone TW PZ 11 is Moderate. The Landscape Condition of Trent Washlands Policy Zone TW PZ 11 is Moderate.
- 10.39 Trent Washlands Policy Zone TW PZ 32: Kelham Hills River Meadowlands (Policy: Conserve) Part of Kelham Hills former Mature Landscape Area within the Trent Washlands, this is an area of mixed farming with small to medium sized fields of pasture and arable land. The historic field pattern is largely intact with tall and bushy mixed species hedgerows. The Landscape Sensitivity of Trent Washlands Policy Zone TW PZ 32 is High. The Landscape Condition of Trent Washlands Policy Zone TW PZ 32 is Good.
- 10.40 The key landscape characteristics of the Village Farmlands LCT pertinent to the application site include:
- (a) A flat, large scale intensive arable landscape.
 - (b) Medium to large-sized semi-irregular fields with hedgerows intact but fragmented in places.
 - (c) Smaller field sizes adjacent to villages with pasture.
 - (d) Landscape fragmented by busy roads and railway.
 - (e) Winding roads between the villages with strong hedgerows.
 - (f) Nucleated villages with red brick and pantile roofed buildings to the historic core.

10.41 The LCA makes the following comments on Landscape Condition:

"The Landscape Condition is defined as moderate. The landscape has been fragmented in places by transport routes, including the busy A1 to the north east of the area. There are some detracting features which include the National Grid power station to the south of Averham, pylons, the railway line and busy roads. There is some commercial development, not always in keeping with a rural landscape. Overall the area is visually coherent."

10.42 The historic field pattern has largely disappeared but, where hedgerows have been allowed to grow tall and bushy, they provide a moderate network for wildlife. There are a few small isolated woodland blocks, but tree cover is largely along transport routes, to the periphery of restored gravel workings and with occasional hedgerow trees.

10.43 The LCA makes the following comments on Landscape Sensitivity: "The Landscape sensitivity is defined as moderate. The historic time-depth has been degraded by intensive arable farming, transport routes and mineral extraction. However, the historic settlement with small areas of pasture and narrow county roads are characteristic of the Trent Washlands LCA. The historic parkland landscape still exists around Kelham Hall. The villages of Kelham and Averham are designated conservation areas. Overall the sense of place is moderate." "Views are often open due to lack of tree cover and the flat valley landform. Within villages, and along winding often narrow country roads with hedgerows, views are more enclosed. The visibility of the PZ is moderate."

10.44 At a local level the Site is defined by its location within the rural fringe close to nearby villages Kelham to the west and Averham to the south. The main detractors within the Site and immediate vicinity are the series of overhead transmission lines which pass through the area to the west picked up in local views inclusive of the site. The field structure is one of medium to large scale arable fields which is bound by mature hedgerows in varying condition and completeness (generally managed to a low-level) and occasional hedge trees which provide further localised screening.

10.45 At a site level the scale is generally open due to the flat topography of the arable fields with only slight changes in level across the Site and its immediate setting. Land within the Site varies only slightly, set between 14-17m AOD. The topography continues to be fairly flat in the immediate area around the Site with localised highpoints further to the south west (Micklebarrow Hill, 55m aod) and to the north (Debdale Hill, 54m aod, South Muskam CP) which are both c.1.5km from the site boundaries. In general, the degree of theoretical visibility reduces markedly beyond 1km from the Site.

10.46 Conversely, the more sensitive area set close to the Site, inclusive of land within Kelham Conservation Area is very well screened by the band of woodland to the immediate east in between the site and neighbouring Kelham Country House and Kelham Hall. Land further to the east within the Trent River floodplain is similarly unchanging beyond the extents of Kelham and Averham villages.

10.47 The Trent Valley Way heads north through the study area passing the Site where it follows the A617 on route to Kelham, for a short distance adjacent to the south west corner. Away from the road corridor the route heads east where land gently falls away towards the River Trent (c11-13m AOD) where it the route is set down with no intervisibility with the Site and landscape west of Kelham village.

10.48 Visibility is influenced by the scale of the landscape which is the extent of enclosure and variation in topography, which combine in determining the sensitivity of a particular landscape to change. At the Site level, ground level visibility is further defined by the internal hedgerow field boundary subdividing the two larger arable fields which precludes all areas of the Site being visible together and hedgerows bounding the outside which are managed to varying heights and in places includes hedgerow trees which provide additional screening. See the detailed landscape value table at section 4.5 of the LVIA.

- 10.49 Through the consideration of the above indicators it is considered that the Site (and the wider study area) are of Medium landscape value. This is further evidenced within the Newark and Sherwood landscape character assessment covering the site and study area which assessed the condition and sensitivity of the landscape as Moderate. The site and immediate context contains some landscape detractors namely the OHT towers and A617 road corridor and associated rural/urban fringe land uses and is functionally limited with limited public access which affects its overall value. Whilst the study area contains large tracts of open countryside to the west and north and south of the immediate context this is offset by the urbanising effect of the aforementioned urban and rural fringe land uses and activities. The Site is low importance for rarity at a local scale with some redeeming features (mature hedgerows forming enclosure) but with room for improvement (infilling of hedgerows). The Site interior, itself does not lie within or adjacent to a designated landscape and does not present locally important or distinctive landscape characteristics. These are comprised of the woodland blocks and village conservation areas as well as the parkland grounds of the immediate surroundings (Kelham Manor, Kelham Hall and village core). The western side of the Site offers public amenity value by way of a single public footpath running through the site which forms part of a local circular permissive route. It is proposed to have a suitable standoff from the proposed layout of solar panels so that this route will be physically unaffected by the Development.
- 10.50 There are no Registered Parks and Gardens (RPG), Country Parks (CP) and specific landscape designations within the Local Plan/Development Framework such as Areas of Great Landscape Value (AGLV), Special Landscape Areas (SLA) or national landscape designations such as Areas of Outstanding Natural Beauty (AONB) and National Parks (NP).
- 10.51 The nearby built heritage sites including the settings of Kelham Hall and Kelham Country House within Kelham Conservation Area, which whilst locally and regionally important and valued are not landscape designated sites and due to high levels of screening have limited relationship to the Site. The Site area is not covered by any landscape specific local planning designations, applicable to landscape for example a 'Special Landscape Area'. There are no other landscape planning designations within the study area with the potential to be either directly or indirectly affected by the Development.
- 10.52 Mitigation is included in the Development as it is an integral part of the design and assessment process. The mitigation proposals incorporate features primarily for landscape and visual reasons but are additionally informed by the findings of the ecological and archaeological assessments where applicable.
- 10.53 The layout of the Solar Farm and BESS is designed to fit within the context of the arable fields of an existing farm unit that has some public access. All existing perimeter hedgerows and trees will be retained. Access to the solar farm will be restricted by unobtrusive Deer security fencing of an agricultural style, timber post and mesh. Appropriate buffers are incorporated into the solar farm layout to the existing vegetation (a minimum 4m standoff from hedges / trees to the site security fence) and development is restricted from within the canopy of trees and hedges. In many places the buffers and standoffs from the solar array 'tables' are wider to incorporate existing site constraints such as the OHT corridor in the north west field, western boundary woodland block, and the potential flood alleviation ditches at the eastern site boundary (A617).
- 10.54 General landscape (and ecological) design, mitigation and enhancement features within the Development are detailed within Drawing HC1002 05 16 Landscape Mitigation.
- 10.55 Due to the relative scale of the Development, spanning several adjoining arable fields (2 large fields directly west of Kelham and two smaller enclosures north of Averham) of the arable farm, the landscape pattern would be interrupted, but the nature of the Development (up to 2.0m high solar arrays) would largely restrict the effects to ground level and the arrays would not form skyline features over the wider landscape character area, given there is little topographical variation across the Site and adjoining fields.
- 10.56 Whilst the legibility of the existing field pattern would be changed given some internal boundaries would be occluded by the solar layout, the existing landscape structure would be

largely unchanged. All hedgerow boundaries are to remain and from outside the site this change would be much less perceptible.

- 10.57 The Development is also reversible upon decommissioning with no wide scale effects on landform occurring.
- 10.58 The nearest settlement is the nucleated village of Kelham to the east. Whilst the village and its conservation area are in close proximity to the site, it is afforded a high degree of screening due to the wooded settings of Kelham Hall and Kelham Country House which occupy land to the south of the village centre and A617 (Main Road). The historic settlement and parkland landscape that encloses it do create a valued sense of place but one that is degraded as one moves beyond its edges by intensive arable farming and transport routes and National Grid Infrastructure (powerlines and power station further to the south). There are some detached properties lining Broadgate Lane, the gardens of which are located in closer proximity to the northern Site boundary which will be accessed separately to ascertain the level of landscape and visual effects that will be experienced by a small number of residents.
- 10.59 The most sensitive element remains the public right of way passing through the Site which bisects the two larger field enclosures which will remain physically unaffected. Mitigation and management measures proposed would additionally over time enhance the landscape structure of the area and aid the integration of the development.
- 10.60 As discussed in the LVIA, within the mitigation section outside of the solar deployment area the Site is to be managed for biodiversity benefit. The aesthetic and perceptual aspects of the landscape would be negatively affected by the Development, but focussed to the site area only.
- 10.61 Considering the characteristics of the Site and its immediate context and the details of the Development, primarily 2m high solar panels (arrays), the scale of effect is limited to the Site, and for the most part experienced in the immediately adjoining areas only. The scale of effect is considered to be Medium. The Site will experience a change of use from arable farmland to solar panels with grassland but set within the context of an established and maintained perimeter landscape structure.
- 10.62 The Development is considered to result in a Moderate level of landscape effect overall, these are 'Not Substantial' landscape effects. The Development would affect an area of landscape character of Medium/Moderate value / susceptibility to change, but limited to effects within the local context, diminishing the sense of place locally and most evidently setting of the PRoW NT Kelham FP4, crossing the north western area of the Landscape and Visual Impact Assessment Proposed Solar Farm and Battery Storage Kelham, Newark-on-Trent site and users of the permissive bridleway that will provide a circular route which broadly follows site boundaries. The Development is considered to result in a Minor level of landscape effect on the wider study area overall, these are 'Not Substantial' landscape effects.

Conclusion

- 10.63 The Appellant produced a Landscape and Visual Impact Assessment in accordance with relevant industry standards. This includes paragraph 6.7 that addresses cumulative impact and concluded that "Taking account of the Medium sensitivity of the LCA, the overall cumulative degree of landscape effect is judged to be Moderate for years 1 to 10. The integration of both developments within the southern half of the LCA would be assisted by the proposed mitigation schemes once implemented and fully established" (paragraph 6.7.6).
- 10.64 Influence Landscape Planning and Design Ltd ("ILPD") were appointed by the Council to provide comments on the Appellant's Landscape and Visual Impact Assessment. In terms of cumulative impact, it does not disagree either with the Appellant's methodology or conclusions. It notes that the Great North Solar Park to the north of the Site is at an early stage and the cumulative impact is difficult to assess. The NSIP project will include a cumulative impact assessment.

- 10.65 ILPD note at paragraph 3.22 of their report that a Landscape Mitigation proposals (drawing HC1002 02 16 R2) will be implemented as part of the Development.
- 10.66 DPD Policy DM4 and DM5 were appraised at paragraph 6.4.8 of the Planning Statement. Policy DM4 supports renewable energy projects, and confirms that planning permission will be granted where the benefits of projects are not outweighed by any detrimental impact of a project on "1. The landscape character...from the individual or cumulative impact of proposals...". The Council has not identified in the reason for refusal what it considers to be the detrimental impact of the Development and as set out above, the cumulative impact has only been assessed as Moderate.
- 10.67 DPD Policy DM8 has been assessed above in response to Reason 1 and has been appraised at paragraph 6.4.8 of the Planning Statement, but is not concerned with landscape character, rather it is concerned with development in the open countryside in general terms. Spatial Policy 3 of the Core Strategy states in relation to character that "new development should not have a detrimental impact on the character of the location or its landscape setting". Although the Development will have a moderate impact on landscape character, mitigation will be embedded in the Development. The policy has to be read alongside other development plan policies that support renewable energy projects, and national policy that recognise location constraints, primarily the availability of a grid connection. With regard to Core Policy 9, the Development is wholly consistent with its terms.
- 10.68 The Council have not set out any detail regarding the terms of the development plan policies, or national policy that they say support the refusal of the Application. The Appellant has demonstrated through the Planning Statement, and the supporting reports produced with the Application, together with this Statement of Case, that the Development is consistent with the development plan policies when taken as a whole, and is consistent with national planning and energy policies.
- 10.69 The Appellant's landscape evidence including its Landscape Visual Impact Assessment (LVIA) offers a systematic summary of the likely effects of the Development.
- 10.70 Paragraph 187(a) of the NPPF, indicates that whilst the intrinsic character and beauty of the countryside should be recognised, it does not seek to protect, for its own sake, all the countryside from development; rather it concentrates on the protection of 'valued landscapes', although the NPPF does not define what constitutes a valued landscape.
- 10.71 The Appellant has designed the Development in a way to minimise visual and landscape impacts as much as possible. Although some harm will be caused and appropriate weight will be given to that in the planning balance the clean and secure energy production the Development offers is a substantial standalone overarching public benefit. There would also be substantial public benefits from BNG and legacy planting provision, as enhancements. Those particular benefits, in this case, should outweigh the 'less than substantial harm' noted. This is consistent with the approach taken by the Inspector in appeal reference APP/U1105/W/23/3320714 (Appendix 14) Land to the south and west of Marsh Green, Marsh Green, East Devon EX5 2EU.
- 10.72 In planning appeal APP/L3245/W/23/3314982 (Appendix 15) relating to the Ledwyche Solar Farm in Shropshire, the Inspector considered cumulative impact and at paragraph 39 stated that "mitigating climate change and moving to a low carbon economy are included as objectives in achieving sustainable development in the NPPF. I consider that the renewable energy benefits of the proposed development should be given substantial weight in favour of allowing the appeal". In the recent Muskham Solar Farm appeals APP/B3030/W/24/3344502 (Appendix 16) and APP/B3030/W/24/3344500 (Appendix 17) 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.

Reason 3

10.73 The third reason for refusal is:

"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. 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".

Summary

- 10.74 Paragraph 6.3 of the Heritage Impact Assessment addresses the Kelham Conservation Area in detail and Section 6.4 addresses Kelham Hall. Section 7.3 of the assessment considers Kelham Conservation Area and Kelham Hall together. Paragraph 7.3.4 concludes that the magnitude of impact on the heritage value of Kelham Hall is considered a Minor negative impact. Paragraph 7.3.5 concludes that the magnitude of impact on the heritage value of Kelham Conservation Area is considered to be Minor negative impact.
- 10.75 The Development includes embedded mitigation that is intended to minimise as far as possible any negative impacts of the Development on heritage. Paragraph 8.1.2 of the Heritage Impact Assessment confirms that to the north-east end of the Site, an earth bund and hedgerow planting will screen views of the Site from Kelham Conservation Area, particularly the north-west part of the Conservation Area which is adjacent to the Site. Paragraph 8.1.3 confirms that in the southern area of the Site, the boundary between the Development and Kelham Conservation Area would be buffered by a strip of woodland planting, which would prevent views of the Site from the southern end of the Conservation Area. The woodland planting will be in keeping with other strips of woodland in the area.
- 10.76 The significance of impact of the Development with the embedded mitigation has been assessed for all seven potentially impacted assets as Minor or Negligible and no further mitigation is required.
- 10.77 Paragraph 6.4.5 and 6.4.8 of the Planning Statement have appraised Policy CP14 of the Amended Core Strategy (2019) and DM9 of Allocations and Development Management DPD (2013). The Development is wholly consistent with these policies and the distinctive character and setting of the Kelham Conservation Area has been taken into account in the Development and suitable mitigation introduced.
- 10.78 The Council have not set out any detail regarding the terms of the development plan policies that they believe that the Appellant has either failed to have regard to or does not comply with. The Appellant has demonstrated through the Planning Statement, and the supporting reports produced with the Application, together with this Statement of Case, that the Development is consistent with the development plan policies when taken as a whole, and is consistent with national planning and energy policies.

Comment

- 10.79 The Council's Conservation Officer in their Heritage Advice note dated 17 July 2024 has identified the following relevant heritage assets:

- Averham Conservation Area, in relation to which the Conservation Officer states "given the mitigating factors explored above this harm will be at the lower end of less than substantial to the overall significance of Averham CA".
- The Old Rectory Averham, in relation to which the Conservation Officer states "any impact would be at the lower end of less than substantial".
- Church of St Michael and All Angels, Averham, in relation to which the Conservation Officer states "this is already a somewhat glimpsed view given the greenery around this path. While this view will be detracted by the modern solar farm in the foreground the existing and proposed increased green screening will limit opportunities to experience this altered view, making harm to the significance of the LB at the lower end of less than substantial".
- Kelham Conservation Area, in relation to which the Conservation Officer states "The [mitigation] bund itself has an impact to consider. While this is a green feature and so not unattractive, it will effectively remove these long-distance landscape views which currently contribute positively to the setting of the CA here, so the mitigation alone will be harmful. In the context of the overall significance of the CA this harm will be at the lower end of less than substantial to Kelham CA" and "The gables and chimneys of Kelham House are still visible over tree tops here at present, so there is likely still to be views in which one see the solar farm and distant architecture of Kelham House, but the proposed landscaping should be quite effective in terms of views out from this building. With the mitigation successfully implemented here the impact to the CA at this point is likely to be at the lower end of less than substantial" and further . Mostly the grounds of Kelham Hall are well-contained and there is very limited scope for intervisibility with the application site due to tree cover, however the haha at Page 17 of 19 the southern part of the site gives unbroken views out to the farmland to the south and may allow for intervisibility with the southern part of the scheme, including towards the taller elements of the proposal like the masts and transformer etc. In these views it is accepted that the impact would be to an altered setting, with the A617 in between, and limited by mitigation planting, but it may well add an incongruous and imposing element in the landscape setting of the CA. Views back to Kelham Hall towers from within the application site, on the east to west track, will also be impacted by the solar farm in the foreground and then by being partly obscured by the proposed additional mitigation planting here. This will harm and obscure these views of Kelham Hall that otherwise act as a way finder for the CA. In these views the impact to the setting of the CA, and thereby the significance of the CA, will be at the lower end of less than substantial harm.

Overall, the impact to the CA will be slight, the majority of the CA being inward looking and contained by green landscaping. The exceptions are at Broadgate Lane, views back towards Kelham House, views back towards the landmark structures of Kelham Hall and Kelham Church and from the grounds of Kelham hall. In these views the impact of the proposal is limited by distance, existing screening and proposed mitigation and will overall lead to harm at the lower end of less than substantial to the character and appearance of Kelham Conservation Area".

- Kelham Hall, in relation to which the Conservation Officer accepts that there will not be intervisibility with the Development from the ground floor of the Hall. There will be some intervisibility from the upper floors. It is not likely that there will be any intervisibility of the Development from the majority of the formal gardens and grounds of Kelham Hall, although there may be views from the haha harming the setting and significance of the Hall. However, "Considering the overall significance of the Hall the likely harm from the proposed solar farm will be at the lower end of less than substantial".
- St Wilfred's Church, Kelham, in relation to which the Conservation Officer states " . It seems unlikely that the proposal will be visible from the church itself, other than perhaps the tower, which despite being raised at pre-app has not been explored here. It also does not seem likely that the proposal site will be intervisible with the immediate setting or graveyard of the church. However, it was observed in the pre-app site visit Page 18 of 19 that the east to west track running across the application site does afford views back to both Kelham and Averham churches, showing that there is a wider landscape setting impact to consider. As above, the church is not prominent in these views and is limited by existing green screening, which will be increased by the proposed mitigation, such that the opportunity to experience this view and see

it altered by the solar farm in the foregrounds will be limited. This harm will be at the lower end of less than substantial".

- Kelham Hall un-registered Park and Garden, in relation to which the Conservation Officer states "The main impact will be from the path along the haha to the south of the current grounds of the Hall, from which open views will take in the southern part of the proposed solar farm. Such views will be mitigated in part by the tree belt, existing and proposed mitigation planting, distance and the intervening A617 and so overall the impact will be limited. The best preserved and most legible elements of the park and garden (with the exception of the walk along the haha) will not be impacted by the proposal. Overall the harm will be at the lower end of less than substantial".
- Averham Park House, South Farm and the Averham Park un-registered Oark and Garden, in relation to which the Conservation Officer states " While intervisibility and impact from the parkland cannot be ruled out, it does seem likely that the visual impact will be hard to discern and would be low and only in limited areas and most likely in the winter months. The HIA identifies that the upper floors of the listed buildings may provide better visibility out across the application site, such that a minor negative impact from this solar farm in the setting of both listed buildings could occur. Again, this impact would be largely mitigated by the intervening distance but nevertheless wouldn't be nil. The likely impact to these three heritage assets would be at the lower end of less than substantial"

10.80 The Conservation Officer's conclusion, despite the harm identified by them is:

"The harm in all cases is judged to be at the lower end of less than substantial and the information in the Addendum to the HIA has not changed this assessment.

This does not necessarily constitute an objection from Conservation, who advise that the harm to heritage assets be given the appropriate consideration in the planning balance against the public benefits of the scheme".

10.81 The Appellant agrees with the Conservation Officer's conclusions.

10.82 Core Policy 14 states that the Council will work with developers to preserve and enhance the special character of the Conservation Areas...". As set out in the Heritage Impact Assessment and Planning Statement, the Development will have only a Minor impact on the Averham Conservation Area and Kelham Conservation Area and these impacts will be less than substantial. The design of the Development includes embedded mitigation to minimise the impact on the these assets in addition to impact on all of the identified heritage assets. In relation to the Kelham Conservation Area and earth bund to the north-east of the Site would screen views of the Site, particularly from the north-west part which is adjacent to the Site. In the southern site area, the boundary between the Development and Kelham Conservation Area would be buffered by a strip of woodland planting, which would prevent views of the Site from the southern end of the Conservation Area. The woodland planting is in keeping with other strips of woodland in the area. This also takes account of the distinctiveness of the Conservation Area as required by Policy DM9.

10.83 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a local authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possess in considering whether to grant planning permission for development which may affect it or its setting. This does not place a prohibition on development that has an affect on such buildings. In relation to the Development, the Heritage Impact Assessment identified it would be in the vicinity of Kelham Hall (High heritage value, Minor negative impact, Moderate or Minor significance of impact) the Church of St Wilfrid, The Old Rectory (Medium heritage value, Negligible negative impact, Minor or Negligible significance of impact), South Farm (High heritage value, Negligible negative impact, Minor significance of impact). The design of the Development includes two elements of embedded mitigation, being the earth bund to the north-east end of the Site and the woodland planting in the southern area of the Site. Consequently, the Development will not compromise the listed buildings or their settings such that would justify the refusal of planning permission.

- 10.84 A balancing exercise has to be undertaken in relation to the harm to heritage assets against the benefits of a renewable energy project. In appeal reference APP/P3040/W/23/3330045 (Appendix 13) Land East of Hawksworth and Northwest of Thoroton, Thoroton, Nottinghamshire, NG13 9DB dated 23 October 2024, the Inspector stated that:

"The harm to three heritage assets would be temporary and reversible. However, the NPPF provides that great weight should be given to the conservation of these assets. In the NPPF paragraph 208 balancing exercise, I consider that the less than substantial harm I have identified to the significance of the designated heritage assets here is outweighed by the substantial public benefits that would be attributable to the renewable energy generated by the proposed solar farm" (paragraph 69).

"The harm I have identified to designated heritage assets attracts considerable importance and weight, but would be outweighed by the public benefits of the development. Against this overall harm must be weighed the benefits of the proposed development. Chief amongst these is the significant contribution of the appeal scheme towards the generation of renewable energy, the resultant reduction in greenhouse gas emissions and energy security benefits, which warrant substantial weight. This, along with moderate weight to be given to biodiversity gain and limited weight for the benefits to the local economy would, in my judgement, outweigh the harm I have identified. (paragraph 101)"

"Subject to the imposition of appropriate planning conditions, I am satisfied that the impacts of the proposed development could be made acceptable, and that in accordance with NPPF paragraph 163(b) the scheme should be approved. The proposal complies with the NPPF taken as a whole and so accords with LPP1 Policy 1, which reflects provisions of the NPPF. 107. The proposal gains support from LPP1 Policy 2 and LPP2 Policy 16. It also complies with LPP1 Policy 1. Any conflict with LPP1 Policies 10, 11 and 16, and with LPP2 Policy 22, would not be sufficient to bring the proposal into contravention of the development plan when considered as a whole" (paragraph 106).

- 10.85 Paragraphs 212 and 213 of NPPF require that 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 goes on to say any harm to, or loss of significance of a designated heritage asset should require clear and convincing justification. It is considered that, as set out at paragraphs 53 of the judgement Pugh v SoSCLG [2015] EWHC 3 (Admin) (Appendix 18), the clear and convincing justification simply means that where there is heritage harm, then the case must be made for permitting the development.
- 10.86 NPS EN-1 established the Critical National Priority (CNP) for the provision of low carbon infrastructure (including solar generation schemes). The NPS sets out at paragraphs 4.2.15 – 4.2.17 that as a CNP project, the presumption is that where any impacts remain after mitigation, the starting point for decision-making is that CNP infrastructure has already met any tests set out within the NPSs, or any other planning policy, which requires 'a clear outweighing of harm' (paragraph 4.2.16).
- 10.87 NPS EN-3, paragraphs 2.10.151 and 2.10.160 state: "2.10.151 - The Secretary of State should consider the period of time the applicant is seeking to operate the generating station as well as the extent to which the site will return to its original state when assessing impacts such as landscape and visual effects and potential effects on the settings of heritage assets and nationally designated landscapes" and "2.10.160 - Solar farms are generally consented on the basis that they will be time-limited in operation. The Secretary of State should therefore consider the length of time for which consent is sought when considering the impacts of any indirect effect on the historic environment, such as effects on the setting of designated heritage assets."
- 10.88 As set out above The Development includes embedded mitigation that are intended to minimise as far as possible any negative impacts of the Development on heritage.
- 10.89 Further, the solar farm element of the Development will have an export capacity of 49.9MW, enough to power over 12,600 homes per year and offset approximately 13,400 tonnes of CO2 every year, being the equivalent of taking over 5,100 cars off the road. The Battery Energy

Storage System ("BESS") element of the Development will have a capacity of 50MW, i.e. the amount of power that can be stored and distributed back to the grid when needed. There is also significant national policy support for renewable energy projects in order to meet net zero goals as set out in detail above. The public benefits of the scheme will be material, given that the scale of the Development is at the cusp of the NSIP threshold in terms of its generation capacity together with the grid balancing benefits derived from the BESS element of the Development. These considerations weigh heavily in favour of the Development.

Conclusion

10.90 In exercising a planning balance, it is clear, having regard to the design of the Development and its embedded mitigation, and the national need for renewable energy projects in order to achieve net zero targets, that Development is acceptable in planning terms.

10.91 As set out above, the Development is supported by national policies, and is not contrary to development plan policies which do not place a prohibition on development affecting heritage assets. The special character of the Conservation Areas within the vicinity of the Site will be preserved. Further, the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 can be fully discharged as the Development will not compromise the preservation of listed buildings or their settings.

11. Planning Obligation and Conditions

11.1 The Planning Officer noted in the Committee Report that a Section 106 planning obligation should be secured to address:

- (a) Details, timescales and measures to ensure all biodiversity improvements are in place and are appropriately monitored for the lifetime of the development, and
- (b) That a highways condition survey is undertaken in agreement with the Highway Authority and all potential damage to the public road rectified.

11.2 The Appellant agrees with this proposal and will be negotiating terms with the Council prior to a hearing.

11.3 Planning conditions will be agreed with the Council through the final Statement of Common Ground.

12. Conclusion

12.1 The Development will generate enough renewable energy from renewable sources to power over 12,600 homes per year and offset approximately 13,400 tonnes of CO₂ every year. The proposed BESS element of the Development will provide important balancing essential to support the grid as electricity generation shifts to more intermittent renewable energy sources. Consequently, it will contribute to national policy goals and is consistent with development plan policies that support sustainable development.

12.2 The site selection process has been carried out in accordance with relevant industry standards, and has led to the Site being chosen as the most viable and available one in the locality. Throughout the design of the Development, impacts on all relevant receptors has been assessed and mitigation measures taken, including where appropriate, the removal of solar panels from the design.

12.3 The Appellant agrees with the summary of material issues as set out in the Planning Officer's Committee Report. It also agrees with the Planning Officer's conclusion that the Development is acceptable having balanced the material issues.

12.4 The Appellant reserves the possibility of calling expert evidence to respond to any matters raised by the Council or third parties in response to this Statement of Case, or where

government advice and matters of planning policy are updated in so far as relevant to the Development.

- 12.5 Renewable energy generation plays an important role within the response to climate change and is recognised at all levels of governance in England. The national economic objective to decentralise energy supply and to lessen dependence on fossil fuels is supported by renewable energy from solar. The wider benefits of renewable energy schemes to society and the economy are significant and must be given weight by decision makers in reaching their decisions on individual planning applications.
- 12.6 The Development will support the Government's goals of developing renewable energy projects, essential to delivering the Net Zero Strategy objective of decarbonising the electricity grid by 2035 and meeting the nations carbon reduction targets. The Development would support growth and prosperity in the energy sector and improve energy security by diversifying the area's energy supply mix and help to protect the local communities from potential black out.
- 12.7 The Development has been considered in the context of national and local policies as well as material considerations for which there is support for proposals for renewable energy generation and necessary enabling infrastructure. All environmental and technical matters can be successfully addressed. The Development would deliver economic, social and environmental benefits.
- 12.8 The Development clearly accords with the 'presumption in favour of sustainable development' under the NPPF, as it secures environmental, economic and social betterment. The potential impacts (with mitigation) of the Development have been demonstrated to be limited and are significantly outweighed by the renewable energy benefits

Appendix 1

List of final drawings and documents based on which the planning application was determined

Appendix 2

Commentary on development plan policies

Appendix 3

Appeal decision APP/D0840/W/23/3334658

Appendix 4

Appeal decision APP/C1570/W/23/3319421

Appendix 5

EN010101-000888 – Decision Letter – Little Crow Solar Park

Appendix 6

Appeal decision APP/H1705/W/22/3304561

Appendix 7

EM010118-001300 Decision Letter Longfield Solar Farm

Appendix 8

Appeal decision APP/G2713/W/23/3315877

Appendix 9

Appeal decision APP/C1570/W/23/3319421

Appendix 10

Appeal decision APP/U2235/W/23/3321094

Appendix 11

Appeal decision APP/L3245/W/23/3329815

Appendix 12

Appeal decision APP/D0840/W/23/3334658

Appendix 13

Appeal decision APP/P3040/W/23/3330045

Appendix 14

Appeal decision APP/U1105/W/23/3320714

Appendix 15

Appeal decision APP/L3245/W/23/3314982

Appendix 16

Appeal decision APP/B3030/W/24/3344502

Appendix 17

Appeal decision APP/B3030/W/24/3344500

Appendix 18

Pugh v SoSCLG [2015] EWHC 3 (Admin)

Appendix 19

Appeal Decision APP/B3030/W/23/3334043