

PINS REF: APP/W1525/W/24/3344509 & APP/B1550/W/24/3344510  
LPA REF'S: 23/00532/FUL AND 23/00285/FUL  
PPG REF: P23-2671  
DATE: 17<sup>TH</sup> SEPTEMBER 2024

# OVERARCHING STATEMENT OF COMMON GROUND

**BETWEEN:**



**ENSO GREEN HOLDINGS J LIMITED  
&  
CHELMSFORD CITY COUNCIL  
&  
ROCHFORD DISTRICT COUNCIL**

**LAND SOUTH OF RUNWELL ROAD,  
RUNWELL, WICKFORD**

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)  
PLANNING AND COMPULSORY PURCHASE ACT 2004**

**PROPOSAL:**

**"INSTALLATION OF A SOLAR FARM WITH BATTERY STORAGE AND ASSOCIATED  
INFRASTRUCTURE"**

<b>Signed:</b> 	<b>Signed:</b>	<b>Signed:</b> 
<b>Name:</b> Alison Hutchinson	<b>Name:</b>	<b>Name:</b> Rob Riding
<b>On behalf of:</b> Hutchinsons (acting on behalf of Chelmsford City Council)	<b>On behalf of:</b> Rochford District Council	<b>On behalf of:</b> Pegasus Group (acting on behalf of the Appellant)
<b>Date:</b> 17 <sup>th</sup> September 2024	<b>Date:</b>	<b>Date:</b> 17 <sup>th</sup> September 2024

## **CONTENTS:**

Page No:

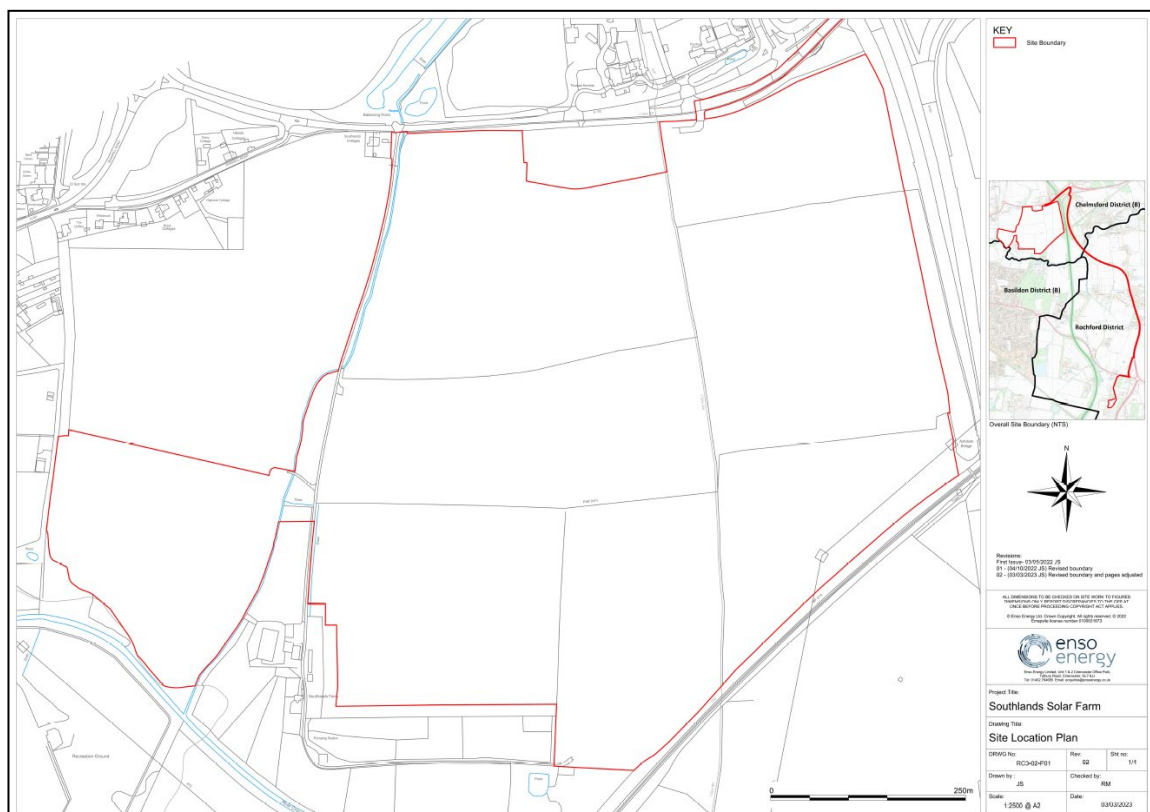
1.	INTRODUCTION	1
2.	THE APPEAL SITE AND ITS SURROUNDINGS	2
3.	THE APPEAL PROPOSALS	4
4.	APPLICATION PLANS AND DOCUMENTS	8
5.	BACKGROUND AND REASONS FOR REFUSAL	10
6.	PLANNING HISTORY	14
7.	PLANNING POLICY	16
8.	MATTERS NOT IN DISPUTE	21
9.	MATTERS THAT REMAIN IN DISPUTE	29
10.	PLANNING CONDITIONS	30
11.	CORE DOCUMENTS	31

## **1. INTRODUCTION**

- 1.1 This Statement of Common Ground (SoCG) has been prepared by Pegasus Group on behalf of Enso Green Holdings J Limited ('the Appellant').
- 1.2 It has been prepared in conjunction with Chelmsford City Council ('CCC') and Rochford District Council ('RDC') (the LPAs) and relates to a Section 78 appeal concerning the proposed solar farm with battery storage on Land south of Runwell Road (A132), Runwell, Wickford, Essex, SS11 7QH ('the Appeal Site').
- 1.3 The Appeal Site is wholly within the Green Belt. For the purposes of the planning application subject of this appeal, RDC, as the LPA for part of the Appeal Site, devolved its decision making powers for the application under Section 101 (1) of the Local Government Act 1972 to CCC.
- 1.4 RDC has confirmed that they intend to take no part in the appeal process but they have confirmed in writing on 13<sup>th</sup> September 2024 that they support CCC's stance on the appeal.
- 1.5 The purpose of this Overarching SoCG is to identify the areas where the principal parties (the Appellant and CCC) are in agreement and to narrow down the issues that remain in dispute. This will allow the Public Inquiry to then focus on the most pertinent issues.
- 1.6 This SoCG should be read alongside the topic based SoCGs on Heritage, Landscape, Flood Risk, and Need.

## 2. THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The Appeal Site extends to approximately 66.1 hectares (ha) and is located wholly within the Green Belt.
- 2.2 The proposed solar farm and battery storage facility would be located across a number of fields separated by well established hedgerows and tree planting. The wider site area is proposed for the underground cabling to provide connection to the National Grid Rayleigh Substation.



**Figure 1: Site Location Plan**

- 2.3 The proposed solar farm and battery storage facility would be located wholly within the administrative area of CCC, along with a proportion of the underground connection corridor. A section of the grid connection route lies within the administrative boundary of RDC, together with the Rayleigh Substation, which would receive the exported electricity from the Proposed Development, approximately 3km to the south of the Appeal Site.
- 2.4 The topography of the Appeal Site generally slopes from approximately 23m AOD near Runwell Road (A132) in the northern part of the Appeal Site to approximately 3m AOD near the River Crouch (south western part of the Appeal Site). Land also slopes gently towards the central watercourse within and adjacent to the Appeal Site.

- 2.5 The watercourse within the Appeal Site follows the route of the north-south oriented access track linking Runwell Road with Southlands Farm.
- 2.6 A Public Right of Way (Footpath 231-8) crosses the Appeal Site in an east-west orientation.
- 2.7 The field network within the Appeal Site is characterised by irregularly shaped fields with well-established hedgerows and significant amounts of tree planting within and surrounding the Appeal Site.
- 2.8 The Environment Agency's (EA) flood map for planning for the area identifies that the majority of the Appeal Site lies within Flood Zone 1 (low risk) with minor areas of the Appeal Site in Flood Zones 2 and 3 along the River Crouch in the southern part of the Appeal Site and adjacent to the watercourse running north-south.
- 2.9 There is a Tree Preservation Order TPO/2001/078 in the northeast corner of the Appeal Site.
- 2.10 There are no designated heritage assets within the Appeal Site and it is not in a Conservation Area. The Heritage SoCG addresses impacts of assets outside the site.

### 3. THE APPEAL PROPOSALS

- 3.1 The cross-boundary Planning Application, which is the subject of this Appeal, seeks Full Planning Permission for the following description of development:

**"Installation of a solar farm with battery storage and associated infrastructure."**

- 3.2 The Planning Application was allocated references 23/00532/FUL and 23/00285/FUL by CCC and RDC, respectively.
- 3.3 RDC validated the planning application and allocated it reference 23/00285/FUL. The Council then devolved their decision making powers for the Planning Application to CCC under Section 101 (1) of the Local Government Act 1972. The Decision Notice issued by CCC on 6<sup>th</sup> December 2023 did not refer to RDC or any Rochford Development Plan policies.
- 3.4 Subsequently, on 19<sup>th</sup> April 2024 a second Decision Notice was issued. The Decision Notice has been issued on behalf of CCC and RDC who are both named on the Decision Notice; however the refusal still only includes the CCC application reference. The 'joint' Decision Notice also makes no reference to any Rochford Development Plan policies.
- 3.5 All parties agreed that the RDC application should be dealt with on the basis that it has also been refused by the Decision Notice issued on 19<sup>th</sup> April 2024, and that is the basis upon which the appeal was made against that application.

#### Proposed Development

- 3.6 The Planning Application subject of this appeal seeks Planning Permission for the construction, operation, maintenance and decommissioning of a ground mounted solar farm which will generate electricity for distribution to the National Grid. The Appellant has a grid connection offer for the proposed solar farm with an AC export capacity of up to 49.9 megawatts (MW) to the National Grid Rayleigh substation.
- 3.7 The proposed solar farm would have a DC capacity of 24.6MW which would produce enough renewable energy for the equivalent annual electrical needs of approximately 6,098 family homes in England.
- 3.8 The anticipated CO2 displacement of the proposed solar farm would be approximately 5,130 tonnes per annum and approximately 205,200 tonnes over the 40-year operational lifetime of the proposed solar farm.

- 3.9 Provision is also provided for a battery storage facility which would be utilised to complement the power generation of the solar farm. The proposed battery storage would have an import and export capacity of up to 57MW.
- 3.10 All associated plant and equipment, together with associated development such as CCTV and fencing is included within the proposals.
- 3.11 The Proposed Development is proposed to operate for a temporary 40 year time period and the decommissioning of the Appeal Site, and its restoration will be addressed by the imposition of conditions.
- 3.12 The connection to the grid would be at the National Grid Rayleigh Substation approximately 3km to the south of the Appeal Site.
- 3.13 Although the Appeal Site is 66.1ha in total, it would not all be 'developed' as a result of the proposals and beneath and between the rows of PV solar panels will remain vegetation, existing and further improved through a Biodiversity Management Plan, which could be secured by condition. The Proposed Site Plan (drawing ref: RC3-02-P02 Rev 04) submitted as part of the Planning Application shows approximately 43,000 panels which cover an area of approximately 11.9ha.

#### Solar Arrays

- 3.14 The proposed solar arrays would be located wholly within the CCC administrative area.
- 3.15 The panels would be laid out in straight arrays north-south and mounted on metal tracking frames up to 3m in height. The panels would utilise a tracker system to follow the path of the sun, tilting to track its movement. This means that their height would vary throughout the day, but the maximum height would be 3m. The arrays would be installed on posts driven into the ground to a depth of approximately 1m depending on ground conditions encountered.

#### Inverters and Transformers

- 3.16 A total of 13 inverter/transformer stations will be located across the proposed solar farm.
- 3.17 The proposed inverters would be housed in metal containers finished in green with a height of 2.9m.

#### Battery Storage Facility

- 3.18 The 24no. proposed battery storage containers, also finished in green would be located toward the north-east corner of the Appeal Site. These have a height of 2.9m and would be surrounded by welded steel wire mesh fencing with a height of 2.4m.

#### Substation

- 3.19 An on-site substation and switchgear compound would be co-located with the battery plant and would consist of 2no. buildings. Both would have a height of 3.9m and be surrounded by welded steel wire mesh fencing with a height of 2.4m.
- 3.20 The on-site substation would combine electricity from the transformers and batteries distributed across the Appeal Site before transferring it to the Rayleigh Substation.

#### Cabling

- 3.21 The proposed underground cabling route would connect the panels and inverter/transformer stations to the proposed on-site substation and control rooms and an underground cable would link from the proposed solar substation to the National Grid Rayleigh substation, approximately 3km to the south of the Appeal Site.

#### Perimeter Fencing and CCTV

- 3.22 Two metre high perimeter fencing (loose metal mesh between wooden posts) with CCTV cameras mounted on poles of between 2.5m and 3m would be installed for security purposes. There would also be at least 1no. 3m high pole-mounted weather station.

#### Access

- 3.23 The Proposed Development would include internal access roads throughout the Appeal Site allowing for the movement of construction and maintenance vehicles.
- 3.24 The Appeal Site would be accessed via an existing gated access from the A132 Runwell Road to the north. Site access would operate on a left in, left out basis as a result of the layout of the Runwell Road in this location.

#### Landscaping

- 3.25 A comprehensive scheme of landscaping is proposed as part of the development proposals. This includes the retention, protection and enhancement of existing trees,



hedgerows and woodland, with new native tree and hedgerow planting (including infill planting in hedgerows).

- 3.26 With regards to hedgerows, a total of three sections will be required to be removed to facilitate an access track, and two sections of security fencing. Approximately 1.8km of additional hedgerow is proposed predominantly adjacent to the Public Rights of Way. The Biodiversity Management Plan submitted with the Planning Application would manage the long-term planting at the Appeal Site.
- 3.27 The enhancement of biodiversity at the Appeal Site is demonstrated through the Biodiversity Net Gain calculation (Metric 3.1) submitted with the Planning Application. This confirms that a net gain of biodiversity would be delivered through the implementation of the Proposed Development with a +138% for habitat units and +85% for hedgerows units.

#### Construction and Operation

- 3.28 Construction is expected to take place over approximately 6 months. Construction vehicles would access the Appeal Site via the existing access off the A132 Runwell Road.
- 3.29 Once installed, maintenance vehicle visits to the Appeal Site would be infrequent and total approximately 10-20 vehicles (transit van or similar typically) per year.
- 3.30 Public Rights of Way within the Appeal Site would remain open and available at all times during construction, operation and decommissioning.

#### Decommissioning

- 3.31 At the end of the 40 year operational lifespan of the Proposed Development, the Appeal site would be decommissioned. All electricity generating equipment and built structures associated with the Proposed Development, including the substation, would be required to be removed from the Appeal Site and it would revert to agricultural use. All existing and proposed planting which would have been established over the project's lifetime would continue to remain on the Appeal Site.
- 3.32 It is envisaged that the decommissioning of the solar farm would take approximately six months.

#### **4. APPLICATION PLANS AND DOCUMENTS**

- 4.1 The plans and supporting documents on which the Appeal is to be determined are listed below:

<b>Document</b>	<b>Reference and/or date</b>
<b>Architectural Plans and Drawings</b>	
Site Location Plan	RC3-02-PO1-1 Rev02 RC3-02-PO1-2 Rev02 RC3-02-PO1-3 Rev02 RC3-02-PO1-4 Rev02
Existing Site Plan	TX1402_RAY 3_T_01 TX1402_RAY 3_T_02 TX1402_RAY 3_T_03 TX1402_RAY 3_T_04 TX1402_RAY 3_T_05 TX1402_RAY 3_T_06
Proposed Site Plan	RC3-02-PO2 Rev04
PV Elevations	RC3-02-PO3
Inverter Transformer Stations	RC3-02-PO4
Internal Access Road Details	RC3-02-PO5
Fence and Gate Elevations	RC3-02-PO6
Weather Station Detail	RC3-02-PO7
Substation Elevations	RC3-02-PO8
Control Room Elevations	RC3-02-PO9
Auxiliary Transformer	RC3-02-PI0
CCTV Elevations	RC3-02-PI1
Battery Container Elevations	RC3-02-PI2
Storage Container Elevations	RC3-02-PI3
Battery Fence and Gate Elevations	RC3-02-PI4
Topographical Survey	TX1402_RAY 3_T_06 TX1402_RAY 3_T_05 TX1402_RAY 3_T_04 TX1403_RAY 3_T_03 TX1402_RAY 3_T_02 TX1402_RAY 3_T_01
Detailed Landscape Design	P22-1918_ENO03E
Illustrative Cross Sections	RC3-02-P17 (Sheet 1) RC3-02-P17 (Sheet 2) RC3-02-P17 (Sheet 3) RC3-02-P17 (Sheet 4)
Proposed Temporary Signage Locations for Construction Traffic	SK02
Proposed Site Access Arrangement on A132 at Existing Field Access	SK03 SK04
<b>Reports</b>	
Planning Statement	March 2023
Design and Access Statement	March 2023
Construction Traffic Management Plan	October 2022
Landscape and Visual Impact Assessment	October 2022

Ecological Appraisal	October 2022
Biodiversity Net Gain (BNG) Calculator	October 2022
Arboricultural Impact Assessment	October 2022
Agricultural Land Classification Report	October 2022
Glint and Glare Assessment	October 2022
Heritage Impact Assessment (inc. Geophysical Survey Report)	November 2022
Flood Risk Assessment and Outline Drainage Strategy	October 2022
Noise Impact Assessment	October 2022
Statement of Community Involvement	October 2022
Report to Inform a Habitats Regulation Assessment	June 2023
Winter Bird Survey Report 2022-2023	June 2023
Technical Note: FRA Addendum	June 2023
Road Safety Audit Stage 1	September 2023
Designer's Response to Stage 1 Road Safety Audit	September 2023
Outline Skylark Mitigation Strategy	August 2023
<b>Other Documents</b>	
Application Form and Certificates	March 2023
Community Infrastructure Levy Forms	March 2023
Covering Letter	29 March 2023
Appeal APP/W1525/W/22/3300222 – Land east and west of A130 and north and south of Canon Barnes Road, East Hanningfield, Chelmsford, Essex, CM3 8BD – installation of solar photovoltaic (PV) park.	July 2023 (upload date to Council online application portal)

- 4.2 However, for reference all of the application plans and supporting documents that formed the Planning Application at the point of its submission to CCC and RDC are listed in at **Appendix 1**. Furthermore, the application plans and supporting documents that were submitted during the consideration of the Planning Application are listed in **Appendix 2**.
- 4.3 Since the Appellant lodged the appeal and to assist the inquiry a Field Number Plan has been prepared (Drawing ref: RC3-02-P21) and this can be found as Core Document 2.1.

## 5. BACKGROUND AND REASONS FOR REFUSAL

### Chelmsford City Council Application (23/00532/FUL)

- 5.1 CCC validated the planning application on the 6<sup>th</sup> April 2023.
- 5.2 The Planning Application was reported to the Council's Planning Committee on the 5<sup>th</sup> December 2023, with the Planning Officer recommending refusal. Members of the Planning Committee voted in accordance with the Officer report to Committee and the Decision Notice refusing planning permission was issued on 6<sup>th</sup> December 2023.
- 5.3 The Decision Notice included two Reasons for Refusal:

#### **"Reason 1**

**Paragraph 147 of the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.**

**Paragraph 151 of the NPPF states that when located in the Green Belt, elements of many renewable energy project will comprise inappropriate development. In such cases, developers will need to demonstrate very special circumstances if projects are to precede. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Policy DM6 and DM10 of the Adopted Chelmsford Local Plan and the Adopted Solar Farm Development SPD reiterate the NPPF.**

**Policy DM19 - Renewable and low carbon energy of the Adopted Chelmsford Local Plan relates to proposals for renewable and low carbon energy. It states that planning permission will be granted for renewable and low carbon development provided they:**

- i. Do not cause demonstratable harm to residential living environment; and**
- ii. Avoid or minimise impacts on the historic environment; and**

- iii. Can demonstrate no adverse effect on the natural environment including designated sites; and
- iv. Do not have an unacceptable visual impact which would be harmful to the character of the area; and
- v. will not have a detrimental impact on highway safety.

When located within the Green Belt, renewable or low carbon energy developments will also need to demonstrate very special circumstances in order to be approved.

The development would result in an unacceptable form of development within the Green Belt outside the exceptions listed within the NPPF or Policies DM6 or DM10 of the Adopted Chelmsford Local Plan. The proposal would be for an inappropriate form of development that would lead to loss of openness.

The proposed development by reason of its siting and scale would result in the creation of a large-scale, man-made, urban character development that would lead to visual and spatial loss of openness.

The very special circumstances put forward by the applicants have been considered, but the applicant has not demonstrated that the harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by the very special circumstances.

The proposal is therefore contrary to Policies DM6, DM10 and DM19 of the Adopted Chelmsford Local Plan, the Adopted Chelmsford Solar Farm Development SPD and the objectives of the NPPF."

## **"Reason 2**

The National Planning Policy Framework (NPPF) states that all planning proposals and decisions should contribute to and enhance the natural and local environment. Paragraphs 174a and 174b require proposals to:

- a) protect and enhance the valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

**Policy DM6 and DM10 of the Adopted Chelmsford Local Plan and the Adopted Solar Farm Development SPD reiterate the NPPF.**

**Policy DM19 - Renewable and low carbon energy of the Adopted Chelmsford Local Plan states that planning permission will be granted for renewable and low carbon development provided they:**

- i. Do not cause demonstratable harm to residential living environment; and**
- ii. Avoid or minimise impacts on the historic environment; and**
- iii. Can demonstrate no adverse effect on the natural environment including designated sites; and**
- iv. Do not have an unacceptable visual impact which would be harmful to the character of the area; and**
- v. will not have a detrimental impact on highway safety.**

**The proposed development by reason of its siting and scale would result in the creation of a large-scale, man-made, urban character development. It would be significantly detrimental to the landscape character of the area and would be harmful to visual amenity. The predicted landscape affects arising from the proposed development are not able to be overcome by the proposed mitigation.**

**The proposal would cause an unacceptable and adverse effect upon the natural environment which in turn would fail to protect the intrinsic character and beauty of the countryside.**

**Further, the applicant's proposal contains insufficient assessment of landscape impacts.**

**The proposal is therefore contrary to Policies DM6, DM10 and DM19 of the Adopted Chelmsford Local Plan, the Adopted Chelmsford Solar Farm Development SPD and the objectives of the NPPF."**

Rochford District Council (23/00285/FUL)

5.4 RDC validated the planning application on the 29<sup>th</sup> March 2023.

5.5 On 26<sup>th</sup> April 2023 a report by the Planning Officer sought approval from the Council's Director of Place to:

**"...delegate Rochford District Council's development committee planning functions to Chelmsford City Council to determine a cross-boundary planning application,**

**reference 23/00285/FUL, for the following development  
(and to negotiate the terms of any necessary planning  
obligation, subject to Rochford Council's final approval);**

**'Installation of a solar farm with battery storage and  
associated infrastructure land south of National Grid'."**

- 5.6 In accordance with Section 101 of the Local Government Act 1972, RDC devolved to CC the discharge of RDC's planning control functions under Section 70 (1) (Part III) of the Town and Country Planning Act 1990 to determine the cross boundary Planning Application.
- 5.7 The CCC Decision Notice issued on 6<sup>th</sup> December 2023 made no reference to RDC or any RDC Development Plan policies. Subsequently, on 19<sup>th</sup> April 2024 a second Decision Notice was issued. The Decision Notice has been issued on behalf of CCC and RDC who are both named on the Decision Notice, but the refusal only includes the CCC application reference. The Reasons for Refusal are the same as those set out above in the initial Decision Notice. The 'joint' Decision Notice also makes no reference to any Rochford Development Plan policies.

## **6. PLANNING HISTORY**

### The Appeal Site

- 6.1 It is agreed that there is no relevant planning history at the Appeal Site to the consideration of this Appeal.
- 6.2 The Appellant submitted an Environmental Impact Assessment (EIA) Screening Request (in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, to CCC on 29<sup>th</sup> April 2022 for a proposed solar farm on the Appeal Site.
- 6.3 CCC issued its EIA Screening Opinion (CCC ref: 21/01186/SCREEN) on 8<sup>th</sup> June 2022, concluding that an Environmental Statement (ES) would not be required to accompany an application for planning permission under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

### Other Applications and Appeals

- 6.4 CCC in their Statement of Case refer to the following Planning Applications approved in the local area:

<b>Application Ref</b>	<b>Site Address</b>	<b>Development</b>	<b>Decision</b>
21/00555/FUL	Land west of Hill Farm, Pan Lane, East Hanningfield	Installation of a solar photovoltaic (PV) park generating up to 8MW of electricity	Approved  7 <sup>th</sup> July 2022
21/00502/FUL	Land east of A130 south of Canon Barns Road, East Hanningfield	Installation of a solar photovoltaic (PV) park generating up to 41.8MW of electricity	Approved  31 <sup>st</sup> January 2022
12/01480/OUT	Former Runwell Hospital Site, Runwell Chase	Housing scheme of circa 600 new homes	Approved  2 <sup>nd</sup> January 2013



6.5 The following planning appeals for solar and/or battery storage development have recently been allowed within the CCC administrative area:

<b>Appeal Ref</b>	<b>Site Address</b>	<b>Development</b>	<b>Decision</b>
3300222	Land east and west of A130 and north and south of Canon Barns Road, East Hanningfield	Installation of a solar photovoltaic (pv) park generating up to 49.9MW of electricity	Appeal allowed  6 <sup>th</sup> December 2022
3306710	Land west of Battlesbridge, Rettendon, Wickford	Construction of a battery energy storage system	Appeal allowed  23 <sup>rd</sup> January 2024

6.6 The location of the sites in the above tables are shown on the plan attached at **Appendix 3**.

## **7. PLANNING POLICY**

- 7.1 This section identifies the planning policies and guidance that will be of relevance to this Appeal.

### **Development Plans**

- 7.2 All parties agree and accept that under the provisions of Section 38 (6) of the Planning and Compulsory Purchase Act 2004, applications for Planning Permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

- 7.3 The part of the Appeal Site where the proposed solar farm and battery storage facility are located is wholly within the administrative area of CCC, along with a proportion the underground connection corridor. For those aspects of the Proposed Development, the Development Plan for the purposes of the Appeal comprises the following documents:

- Chelmsford Local Plan 2013-2036 (adopted May 2020).

- 7.4 A section of the grid connection route lies within the administrative boundary of RDC, together with the Rayleigh Substation, which will receive the exported electricity. For this aspect of the Proposed Development, the Development Plan for the purposes of Appeal determination comprises the following documents:

- Rochford District Core Strategy (adopted December 2011)
- Rochford District Allocations Plan (adopted February 2014); and
- Rochford District Development Management Plan (adopted December 2014).

- 7.5 There are no “Made” Neighbourhood Plans that would directly apply to the Appeal Site.

### **Chelmsford Local Plan 2013-2036 (adopted May 2020)**

- 7.6 The policies of the Chelmsford Local Plan cited in the Council’s Reasons for Refusal on the Decision Notice are:

- Policy DM6: New Buildings in the Green Belt
- Policy DM10: Change of Use (Land and Buildings) and Engineering Operations

- Policy DM19: Renewable and Low Carbon Energy

7.7 Other policies of the Chelmsford Local Plan 2013-2036 (adopted May 2020) that are relevant to the consideration of the appeal are:

- Strategic Policy S1: Spatial Principles
- Strategic Policy S3: Conserving and Enhancing the Historic Environment
- Strategic Policy S4: Conserving and Enhancing the Natural Environment
- Strategic Policy S11: The Role of the Countryside
- Policy DM13: Designated Heritage Assets
- Policy DM14: Non-Designated Heritage Asset
- Policy DM15: Archaeology
- Policy DM17: Trees, Woodland and Landscape Features
- Policy DM18: Flooding/SUDS
- Policy DM23: High Quality and Inclusive Design
- Policy DM29: Protecting Living and Working Environments
- Policy DM30: Contamination and Pollution

#### Rochford District Council Development Plan

7.8 The Decision Notice references no policies in any of the RDC Development Plan documents.

7.9 Notwithstanding, policies of relevance from the RDC Development Plan documents comprise:

- Rochford District Core Strategy (adopted December 2011)
  - Policy GB1: Green Belt Protection
  - Policy ENV6: Large Scale Renewable Energy Projects
- Rochford District Development Management Plan (adopted December 2014)
  - Policy DM1: Design of New Developments
  - Policy DM25: Trees and Woodlands

- Policy DM26: Other Important Landscape Features
- Policy DM27: Species and Habitat Protection
- Policy DM31: Traffic Management

### **Material Considerations**

#### Adopted Chelmsford Solar Farm Development SPD (2021)

- 7.10 The Decision Notice notes that the development is contrary to the Adopted Chelmsford Solar Farm Development SPD.
- 7.11 The SPD refers to National Policy Statements for Energy NPS EN-1 and NPS EN-3 for Renewable Energy Infrastructure as well as the Development Plan policies in the Chelmsford Local Plan.
- 7.12 The SPD references National Policy Statements which have since been updated in November 2023 and designated in January 2024.

#### Emerging Plans

- 7.13 CCC are currently reviewing their Local Plan and an Issues and Options consultation closed in October 2022. The Regulation 18 Preferred Options Plan was subject of consultation between May and June 2024. The Site remains in the Green Belt as part of the Local Plan Review. The Regulation 19 Submission Local Plan Consultation is expected in Quarter 1 2025.
- 7.14 RDC is working with neighbouring authorities and Essex County Council to produce a 'South Essex Plan' which will guide development with a strategic framework and provide high level policies on housing, employment and environmental protection. The Regulation 18 consultation of the South Essex Plan had been proposed for Q1 2022 but this has not progressed.
- 7.15 RDC are reviewing their Core Strategy and an Issues and Options consultation closed in March 2018. A Regulation 18 Spatial Options Document was subject of consultation between July and September 2021 and a further Regulation 18 consultation on the Preferred Options Document is scheduled for Quarter 3 2024. The site remains in the Green Belt as part of the Core Strategy review.
- 7.16 It is agreed that limited weight can be attached to the new policies contained in CCC's emerging Local Plan, the 'South Essex Plan', or the RDC emerging Local Plan.

### **National Guidance**

#### National Planning Policy Framework (December 2023)

- 7.17 The NPPF will be a material consideration in the determination of the Appeal. All parties will make reference to the NPPF in support of their case and the Reasons for Refusal on the Decision Notice references the "*objectives of the NPPF*".
- 7.18 The Planning Application was determined based on the July 2021 version of the NPPF, which was updated in December 2023. All parties will refer to the December 2023 NPPF in their cases going forward.
- 7.19 Paragraph 157 states that the planning system should support the transition to a low carbon future in a changing climate and take full account of flood risk. It also states *inter alia* that renewable and low carbon energy and associated infrastructure should be supported.
- 7.20 Paragraph 163(a) 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 significantly cutting greenhouse gas emissions. Paragraph 163(b) requires that LPAs should approve the application if its impacts are (or can be made) acceptable.

#### National Planning Policy Framework Consultation Draft (July 2024)

- 7.21 All parties acknowledged that the Government published a consultation in July 2024 on proposed amendments to the NPPF. It is agreed that whilst the revisions set out have been published for the purposes of consultation, given that they follow through on previous Manifesto commitments given in the General Election it is considered that they should be afforded weight as evidencing the new Government's direction of travel with regard to planning and energy policy.
- 7.22 The first notable change for the purposes of this Appeal is the proposed amendment to Paragraph 163 (hereafter referred to as the new Paragraph 164) for Local Planning Authorities to support all forms of renewable and low carbon development.
- 7.23 The second notable change is the weight to be attached to the renewable energy generation and a net zero future. Paragraph 164 states that when determining planning applications, the decision-taker should give significant weight to the proposals contribution to renewable energy generation and a low carbon future.

- 7.24 The third notable change is in respect of Green Belts and the introduction of 'grey belt' land in sustainable locations. The parties agree that the appeal site does not represent 'grey belt'.

National Planning Practice Guidance (March 2014, as amended)

- 7.25 The NPPG is a material consideration in the determination of the Appeal but it is not cited in the Reasons for Refusal on the Decision Notice.

Overarching National Policy Statement for Energy (EN-1) (January 2024)

- 7.26 It is noted that at the time of determination of the application the draft National Policy Statement for Energy (EN-1) published in 2023 was in place, but the adopted document is now in force since January 2024.

- 7.27 This document is not referenced in the Decision Notice but is agreed to be a material consideration in the determination of the Appeal.

- 7.28 EN-1 is discussed further in the Need SoCG.

National Policy Statement for Renewable Energy Infrastructure (EN-3) (January 2024)

- 7.29 It is noted that at the time of determination of the application the draft National Policy Statement for Energy (EN-3) published in 2023 was in place, but the adopted document is now in force since January 2024.

- 7.30 This document is not referenced in the Decision Notice but is agreed to be a material consideration in the determination of the Appeal.

- 7.31 EN-3 is discussed further in the Need SoCG.

## **8. MATTERS NOT IN DISPUTE**

8.1 This section sets out the matters not in dispute between the Appellant and the two Local Planning Authorities.

### **Format of Planning Application and Supporting Material**

8.2 It is agreed that the format of the full planning application forms, plans and the supporting documents fulfilled the requirements of the various regulations and validation checklists applicable at the time of submission.

### **Consultations**

8.3 It is agreed that the following consultees raised no objection to the planning application.

#### **Chelmsford City Council – 23/00532/FUL**

- Essex County Council Highways – Proposal acceptable subject to conditions
- Environment Agency – No objection provided the LPA has taken into account the flood risk considerations which are the LPA's responsibility
- Essex County Council Archaeology – Request for conditions to be attached to any permission
- Ramblers Association – No objection but request for condition on retention of the public rights of way as open at all times
- Public Health & Protection Services – No objection subject to noise mitigation being employed as defined in acoustic report
- Anglian Water Services – No objection
- Natural England – No objection
- HSE East Anglia – No objection
- Network Rail – No objection but precautionary comments raised regarding proximity to train line
- Essex County Council Minerals and Waste – No objection and no requirement for Minerals Resource Assessment, provided the land is returned to its former state after 40 years.
- Historic England – Offered no advice

Rochford District Council – 23/00285/FUL

- Cadent Gas – No objection
- National Highways – No Objection

**Settlement Boundary**

- 8.4 The three parties acknowledge that the Appeal Site is located outside any defined Settlement Boundary and is therefore defined as open countryside in planning terms.

**Key Issues for Determination of Appeal**

- 8.5 The parties agree on the following matters with reference to each of the following key issues for the determination of the appeal.
- 8.6 It is agreed that Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications "*...must be in accordance with the plan unless material considerations indicate otherwise.*"
- 8.7 The Courts have determined that it is enough that a proposal accords with the Development Plan when considered as a whole and that it is not necessary to accord with each and every policy contained within the Development Plan<sup>1</sup>.

**Principle of Development and Need for Renewable Energy**

- 8.8 It is agreed that the proposed development comprises a solar farm and battery storage facility, a renewable energy generating station supplying energy to the National Grid. The proposal comprises renewable energy in accordance with the definition in the Glossary of the NPPF.
- 8.9 The battery storage facility is agreed to be 'low carbon' infrastructure in accordance with the definition in the Glossary of the NPPF.
- 8.10 It is agreed that Paragraph 163 of the NPPF is clear that there is no requirement to demonstrate the overall need for renewable energy or low carbon energy developments, and that Local Planning Authorities should:

---

<sup>1</sup> Laura Cummins and London Borough of Camden, SSETR and Barrett Homes Limited [2001]; R v. Rochdale MBC ex parte Milne [2000] and City of Edinburgh Council v. Secretary of State for Scotland [1997]



**"... recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions; ...**

**Approve the application if its impacts are (or can be made) acceptable..."**

- 8.11 It is agreed by all parties that there is not an in principle objection to solar development in the countryside.
- 8.12 It is agreed that the production of up to 49.9MW per annum of electricity from the proposed development should be given substantial positive weight in favour of granting planning permission for the proposal.

### **Site Selection**

- 8.13 It is agreed that there is no sequential test requirement for the location of solar farms in the CCC or RDC Development Plans, the NPPF or PPG and no planning policy which explicitly precludes solar farm development in open countryside or on agricultural land.

### **Green Belt**

- 8.14 Paragraph 156 of the NPPF is relevant to such consideration of the Proposed Development. It states that:

**"When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developments will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources."**

- 8.15 Very special circumstances must be demonstrated in accordance with Paragraph 153 of the NPPF:

**"When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations."**

- 8.16 It is agreed that the proposed development is inappropriate development in the Green Belt and very special circumstances need to be demonstrated.
- 8.17 It is agreed that when considering whether very special circumstances apply not every circumstance in itself has to be 'very special' and the Courts have determined that some factors which are quite ordinary in themselves could, cumulatively, become very special circumstances. The correct approach is to determine whether the very special circumstances identified, when considered as a whole, are sufficient to outweigh any harm to the Green Belt and any other harm arising from the proposed development.
- 8.18 The PPG at Ref. ID: 64-001-20190722 (22<sup>nd</sup> July 2019) confirms that the Courts have identified a number of matters which can be taken into account when considering the potential impact of development on the openness of the Green Belt:

**"These include, but are not limited to:**

- **openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;**
- **the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and**
- **the degree of activity likely to be generated, such as traffic generation."**

- 8.19 It is agreed that whilst there would be harm to the openness of the Green Belt by definition. The Appellant claims that this impact will be fully reversible at the end of the 40 year operational life of the Proposed Development.

It is agreed that the proposed underground cabling within the RDC administrative area would be an engineering operation and would therefore not represent inappropriate development within the Green Belt in accordance with Paragraph 155 of the NPPF.

### **Green Belt Purposes**

8.20 In respect of each purpose of the Green Belt, it is agreed that:

<b>Green Belt Purpose</b>	<b>Agreed Position</b>
<b>Purpose 1</b> – to check the unrestricted sprawl of large built-up areas	<ul style="list-style-type: none"><li>• The Proposed Development does not conflict with this purpose.</li></ul>
<b>Purpose 2</b> – to prevent neighbouring towns merging into one another	<ul style="list-style-type: none"><li>• The Proposed Development does not conflict with this purpose.</li></ul>
<b>Purpose 3</b> – to assist in safeguarding the countryside from encroachment	<ul style="list-style-type: none"><li>• The Appeal Site contributes to this purpose of the Green Belt and the Proposed Development would result in harm to this purpose.</li></ul>
<b>Purpose 4</b> – to preserve the setting and special character of historic towns	<ul style="list-style-type: none"><li>• The Proposed Development does not conflict with this purpose.</li></ul>
<b>Purpose 5</b> – to assist in urban regeneration, by encouraging the recycling of derelict and other urban land	<ul style="list-style-type: none"><li>• This purpose is not applicable and the Proposed Development does not conflict with this purpose.</li></ul>

### **Landscape Character and Appearance**

8.21 Please refer to the Landscape SoCG on this matter.

### **Biodiversity**

8.22 It is agreed that the likely effects of the proposed development on nature conservation and biodiversity have been fully assessed by the Planning Application.

8.23 It is agreed that the Proposed Development has been designed to minimise the direct impact on skylarks.

8.24 It is agreed that the Proposed Development would lead to an enhancement of biodiversity, delivering a 138% net gain in habitat units and 85.1% net gain in hedgerow units, above the statutory requirements of the Environment Act 2021.

8.25 It is agreed that the ecological mitigation arrangements proposed are acceptable subject to appropriate conditions to secure a Landscape and Ecological

Management Plan and appropriate conditions on hard and soft landscaping, boundary treatments and CCTV and lighting.

### **Trees and Hedgerows**

- 8.26 The proposed development does not propose the removal of any trees.
- 8.27 Three small sections of hedgerow would be removed and it is agreed that any impact of such removal would be negligible. There will be a net beneficial increase in tree and hedgerow planting.

### **Agricultural Land**

- 8.28 The Agricultural Land Classification Report submitted with the Planning Application identifies that the Appeal Site comprises agricultural land within Grades 3a (18.2ha, 26.5%) and 3b (50.6ha, 73.5%).
- 8.29 All parties agree that the agricultural use of the land could continue with the Proposed Development in place if grazed in which case there would be a limited loss of agricultural land. To allow for future agriculture use, whether pastoral or arable (or a combination), the Appeal Scheme would be decommissioned following the operational phase.
- 8.30 It is agreed that the Proposed Development would not lead to a permanent loss of Best and Most Versatile agricultural land provided the solar panels are removed in the future with no permanent loss of agricultural land quality occurring.
- 8.31 It is agreed that Natural England do not object to the proposed development.

### **Heritage**

- 8.32 Please refer to the Heritage SoCG on this matter.

### **Traffic and Access**

- 8.33 It is agreed that the Highway Authority had no objection to the Proposed Development based on the safety of the site access, the impact of the construction phase and also risks posed by glint and glare, subject to conditions.
- 8.34 It is agreed that the Appeal Scheme is not detrimental to highway safety, capacity or efficiency.

**Glint and Glare**

- 8.35 The glint and glare assessment submitted with the Planning Application is considered appropriate for the determination of the appeal.
- 8.36 It is agreed that taking into account the proposed mitigation and landscaping scheme, there would be no adverse effects arising from glint and glare and no impact on local receptors.
- 8.37 The Proposed Development is agreed to be acceptable in amenity terms.

**Noise**

- 8.38 It is agreed that the Appeal Scheme would not result in any material adverse impacts on noise and CCC's Public Health and Protection Service raised no objections to the Proposed Development.

**Flood Risk and Drainage**

- 8.39 Please refer to the Flood Risk SoCG on this matter.

**Temporary Consent**

- 8.40 It is agreed that a 40-year temporary planning permission is sought from the date of the first generation of electricity and at the end of this period the Proposed Development would be decommissioned, the equipment removed from the Appeal Site, and the restored site would then continue in agricultural use.
- 8.41 It is agreed that when considering the potential impact of a proposal on the openness of the Green Belt, the NPPG advises that the duration of the development and its remediability to its original state or to an equivalent (or improved) state of openness can be taken into account in making this assessment.
- 8.42 It is agreed that a condition would ensure that a Decommissioning Statement is submitted for approval, to detail how the equipment will be removed from the Appeal Site and the land restored to its former condition.

**Benefits of the Proposed Development**

- 8.43 Both parties agree that there are benefits which weigh in favour of granting planning permission but the weight to be afforded to the benefits is a matter of dispute. Please refer to the Need SoCG on this matter.

## **9. MATTERS THAT REMAIN IN DISPUTE**

- 9.1 The issues that remain in dispute between the Appellant and CCC comprise the following:

### **Very Special Circumstances**

- 9.2 It is an issue between the parties as to the degree of harm the Proposed Development would have on the openness of the Green Belt and on the five purposes of including land within the Green Belt and the level of landscape harm.
- 9.3 It is an issue between the parties as to whether the identified benefits of the Proposed Development are sufficient to outweigh the harm to the Green Belt and other harms and therefore amount to Very Special Circumstances being demonstrated.

### **Flood Risk**

- 9.4 It is the Council's case in relation to flood risk that the Appellant has not demonstrated that the sequential test has been satisfied.

### **Solar Farm Development SPD**

- 9.5 The weight to be attached to the Adopted Chelmsford Solar Farm Development SPD is not agreed between the parties.

### **Heritage**

- 9.6 The level of harm to the heritage significance of the non-designated WWII pillboxes within and in the vicinity of the site, and whether there would be harm to the heritage significance of the non-designated Toby Carvery remain issues between the Parties.

## **10. PLANNING CONDITIONS**

- 10.1 It is agreed that control over the form of the development could be achieved through the imposition of conditions. A list of matters which form the draft set of conditions will be provided by separate cover and agreed with CCC and RDC.



## **11. CORE DOCUMENTS**

- 11.1 The Appellant and Councils will seek to agree a list of Core Documents as required by the Inspector.

## **APPENDIX 1**

**Application plans and supporting documents that formed the Planning Application at the point of submission**

**5B: PLANS, DRAWINGS AND DOCUMENTS SUBMITTED WITH THE INITIAL APPLICATION**

Document	Reference and/or date
<b>Architectural Plans and Drawings</b>	
Site Location Plan	RC3-02-P01-1 Rev02 RC3-02-P01-2 Rev02 RC3-02-P01-3 Rev02 RC3-02-P01-4 Rev02
Existing Site Plan	TX1402_RAY 3_T_01 TX1402_RAY 3_T_02 TX1402_RAY 3_T_03 TX1402_RAY 3_T_04 TX1402_RAY 3_T_05 TX1402_RAY 3_T_06
Proposed Site Plan	RC3-02-P02 Rev04
PV Elevations	RC3-02-P03
Inverter Transformer Stations	RC3-02-P04
Internal Access Road Details	RC3-02-P05
Fence and Gate Elevations	RC3-02-P06
Weather Station Detail	RC3-02-P07
Substation Elevations	RC3-02-P08
Control Room Elevations	RC3-02-P09
Auxiliary Transformer	RC3-02-P10
CCTV Elevations	RC3-02-P11
Battery Container Elevations	RC3-02-P12
Storage Container Elevations	RC3-02-P13
Battery Fence and Gate Elevations	RC3-02-P14
Detailed Landscape Design	P22-1918_EN_003C
<b>Reports</b>	
Planning Statement	March 2023
Design and Access Statement	March 2023
Construction Traffic Management Plan	October 2022
Landscape and Visual Impact Assessment	October 2022
Ecological Appraisal	October 2022
Biodiversity Net Gain (BNG) Calculator	October 2022
Arboricultural Impact Assessment	October 2022
Agricultural Land Classification Report	October 2022
Glint and Glare Assessment	October 2022
Heritage Impact Assessment (inc. Geophysical Survey Report)	November 2022
Flood Risk Assessment and Outline Drainage Strategy	October 2022
Noise Impact Assessment	October 2022
Statement of Community Involvement	October 2022
<b>Other Documents</b>	
Application Form and Certificates	March 2023
Community Infrastructure Levy Forms	March 2023
Covering Letter	29 March 2023

## **APPENDIX 2**

**Application plans and supporting documents that were submitted during the consideration of the Planning Application**

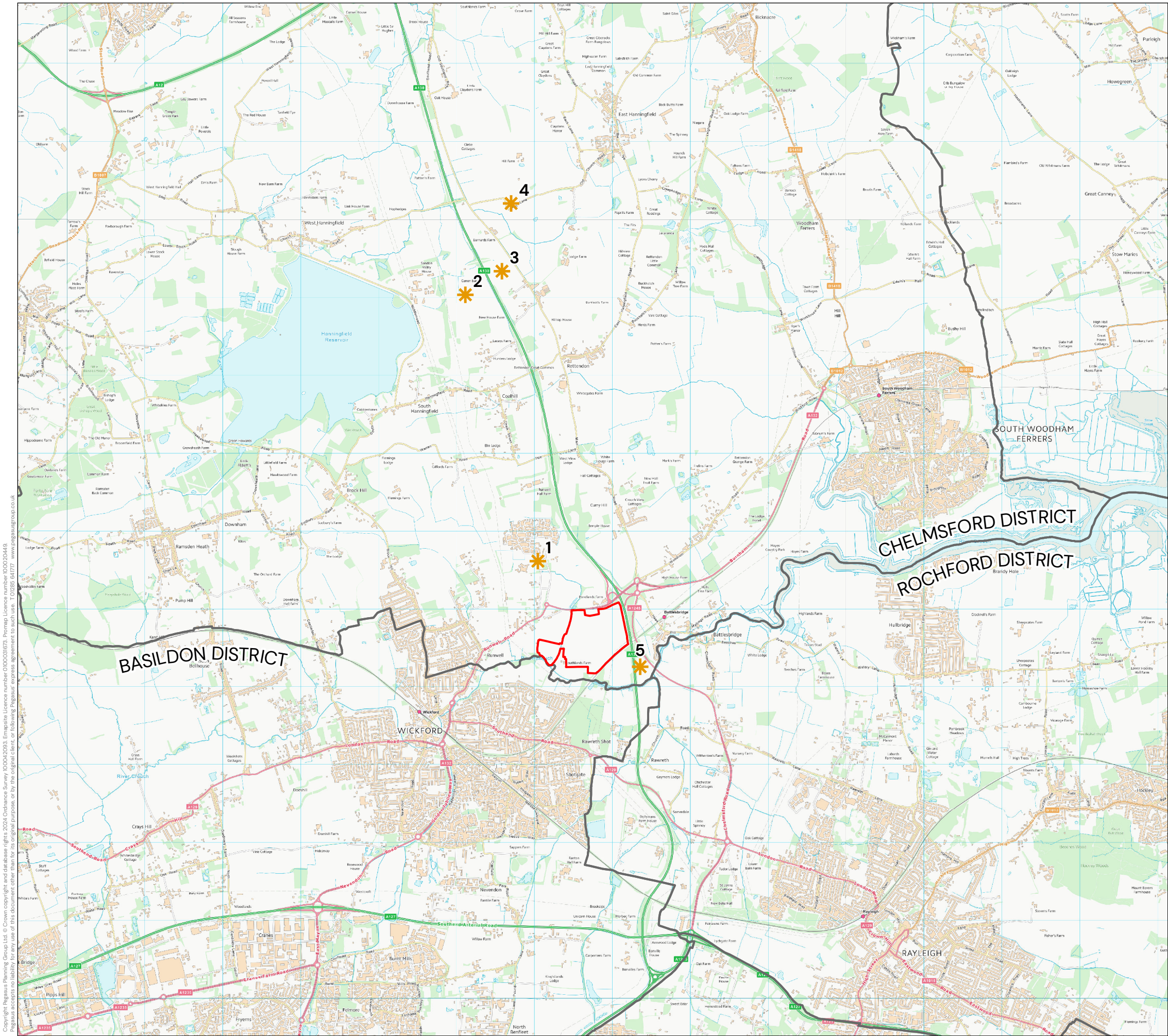
**6B: PLANS, DRAWINGS AND DOCUMENTS WHICH DID NOT FORM PART OF ORIGINAL SUBMISSION:**

Document	Reference and/or Date
<b>Architectural Plans and Drawings</b>	
Detailed Landscape Design	P22-1918_EN003E (20/06/2023)
Illustrative Cross Sections	RC3-02-P17 (Sheet 1) (26/06/2023) RC3-02-P17 (Sheet 2) (26/06/2023) RC3-02-P17 (Sheet 3) (26/06/2023) RC3-02-P17 (Sheet 4) (26/06/2023)
Proposed Temporary Signage Locations for Construction Traffic	SK02 (11/09/2023)
Proposed Site Access Arrangement on A132 at Existing Field Access	SK03 (10/10/2023) SK04 (10/10/2023)
<b>Reports</b>	
Report to Inform a Habitats Regulation Assessment	27/06/2023
Winter Bird Survey Report 2022-2023	27/06/2023
Technical Note: FRA Addendum	23/06/2023
Road Safety Audit Stage 1	06/09/2023
Designer's Response to Stage 1 Road Safety Audit	Undated
Outline Skylark Mitigation Strategy	24/08/2023
<b>Other Documents</b>	
Appeal APP/W1525/W/22/3300222 – Land east and west of A130 and north and south of Canon Barnes Road, East Hanningfield, Chelmsford, Essex, CM3 8BD – installation of solar photovoltaic (PV) park.	Appeal decision dated 6 February 2023; uploaded to application page on 05/07/2023.

## **APPENDIX 3**

### **Location of sites referred to by CCC in their Statement of Case**





KEY

Site Boundary

District Boundary

Planning Applications in the Surrounding Area

1 - 12/01480/OUT – Runwell Hospital

2 - 21/00394/FUL – Sandon Brook Solar Farm (3300222)

3 - 21/00502/FUL – Canon Barns Road Solar Farm

4 - 21/00555/FUL – Hill Farm Solar Farm

5 - 22/00179/FUL – Land West of Battlesbridge (3306710)

NOTES:  
REVISIONS:

PLANNING APPLICATIONS IN THE SURROUNDING AREA

LAND AT SOUTHLANDS

ENSO GREEN HOLDINGS J LTD

N

0

2 km

DATE	SCALE	TEAM	APPROVED
15/10/2024	1:50,000@A3	EH	RR

SHEET	REVISION
-	C

DRAWING NUMBER  
P23-2671\_EN\_16

