

# Statement of Case

## Section 78 Appeal

### Southlands Solar Farm and Battery Storage

### Land South of Runwell Road (A132), Runwell, Wickford

On behalf of the Appellant, Enso Green Holdings J Limited

Date: May 2024 | Pegasus Ref: P23-2671

LPA Refs: Chelmsford City Council ref: 23/00532/FUL

Rochford District Council ref: 23/00285/FUL

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## Document Management.

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# 1. Introduction

- 1.1. This Statement of Case has been prepared on behalf of Enso Green Holdings J Limited (“the Appellant”) and relates to a planning appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990, concerning Southlands Solar Farm and Battery Storage, on land south of Runwell Road (A132), Runwell, Wickford, in Essex (“the Appeal Site”).
- 1.2. The Appeal Site straddles the boundary between Chelmsford City Council (“CCC”) and the neighbouring Local Authority, Rochford District Council (“RDC”).
- 1.3. In terms of procedure, the cross-boundary Application was allocated references 23/00532/FUL and 23/00285/FUL by CCC and RDC respectively. RDC subsequently devolved their powers to determine the application to CCC as per the report at Appendix 1.
- 1.4. The Decision Notice issued by CCC on 6<sup>th</sup> December 2023 (Appendix 2) did not refer to Rochford District Council or any Rochford Development Plan policies.
- 1.5. Subsequently, on 19<sup>th</sup> April 2024 a second Decision Notice was issued. The Decision Notice (Appendix 3) has been issued on behalf of CCC and RDC who are both named on the Decision Notice, but the refusal still only includes the CCC application reference. The ‘joint’ Decision Notice also still makes no reference to any Rochford Development Plan policies and the Reasons for Refusal are as set out on the original 6 December Decision Notice.
- 1.6. The Appeal has been submitted to the ‘decisions’ issued by both CCC and RDC to the two application references but the Appellant therefore requests clarity on the position of RDC in terms of their stance on the application refusal and appeal. If additional policies are introduced to the Reasons for Refusal the Appellant would reserve the right to make further detailed comments in an updated Statement of Case.
- 1.7. The solar farm and battery storage facility are located wholly within the administrative area of CCC, along with a proportion of the underground connection corridor (61.1ha). A section of the grid connection route lies within the administrative boundary of RDC (5ha), together with the National Grid Rayleigh Substation, which will receive the exported electricity from the Proposed Development.

- 1.8. The appeal follows the refusal by CCC of the application for full planning permission (CCC ref: 23/00532/FUL) for the following Proposed Development (“the Appeal Scheme”):

***“Installation of a solar farm, with battery storage and associated infrastructure.”***

- 1.9. The Decision Notice was issued on 6<sup>th</sup> December 2023 and included 2 no. 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 projects 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 demonstrable 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 demonstrable 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 effects 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."*

- 1.10. RDC validated the planning application and allocated it reference 23/00285/FUL. The Council then devolved their powers to determine the application to CCC. The Decision Notice issued by CCC on 6 December 2023 did not refer to Rochford District Council or any Rochford Development Plan policies.
- 1.11. As set out above, subsequently, on 19 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 still only includes the CCC application reference. The Reasons for Refusal are as set out above. The 'joint' Decision Notice also still makes no reference to any Rochford Development Plan policies.

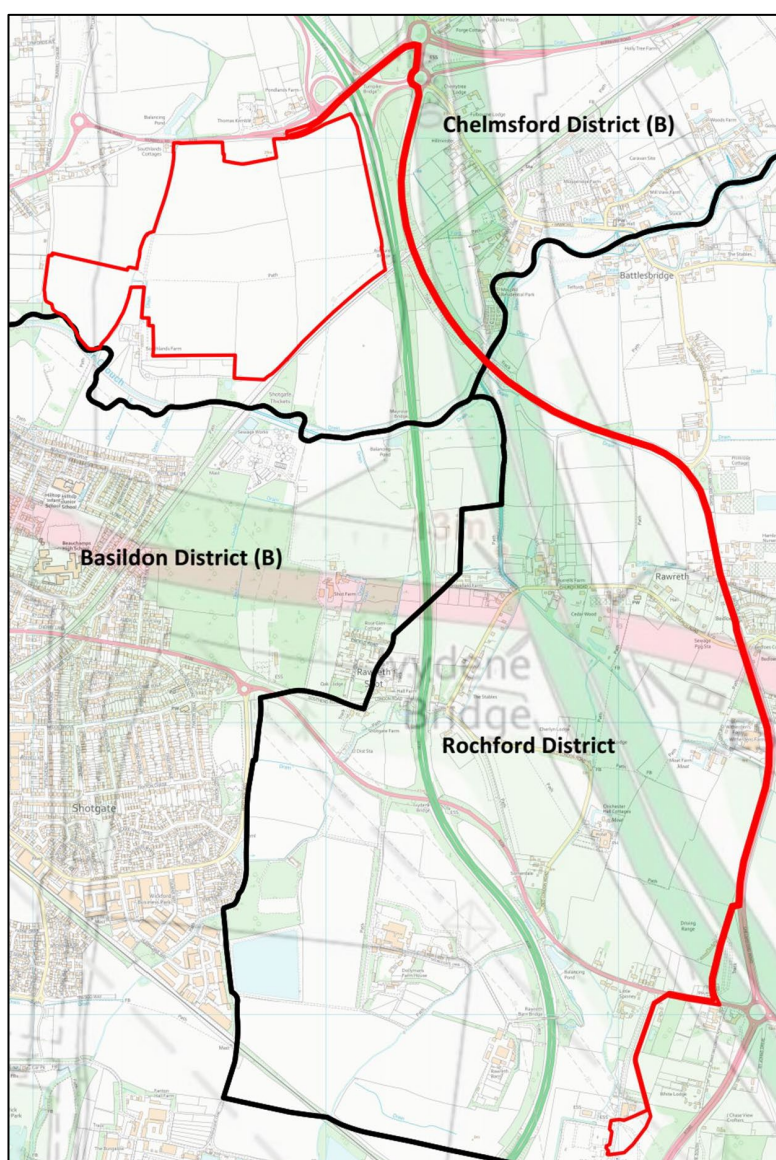
### **Appeal Procedure**

- 1.12. The Appellant considers that a **Public Inquiry** would be the most appropriate procedure for this case for the following reasons.
- 1.13. This is a significant scheme, of strategic importance in planning and energy terms. These matters should be properly tested and scrutinised through formal examination and cross examination of Expert Witnesses by an Advocate, which would not be permissible under the Hearing procedure.
- 1.14. It is necessary for other material considerations to be properly examined, tested and understood through the examination of oral evidence. This includes matters concerning Green Belt and the associated consideration of the demonstration of very special circumstances, on which the Appellant and CCC and RDC are some way apart.
- 1.15. There is additional complexity associated with the involvement of two Local Planning Authorities in the determination of this Appeal. This involves considering matters concerning the overall planning balance and securing the grid connection for the Appeal Scheme, parts of which lie in within each Authority.
- 1.16. It is not expected that all parties could adequately present their case within 2 days (which exceeds normal practice for a Hearing).
- 1.17. The Appellant considers that up to **4 days** excluding a site visit would be required, depending upon the extent of third party involvement in the appeal proceedings. The anticipated time required would significantly exceed the normal time which is regarded as appropriate for an Informal Hearing procedure.
- 1.18. Should it be determined by the Planning Inspectorate that these Appeals are to be determined by way of a different procedure to a Public Inquiry, the Appellant reserves their right to add to this Statement of Case as, while a full Statement of Case, it does not include all the evidence that would be included in proof(s) of evidence in due course.



## 2. The Appeal Site and its Surroundings

- 2.1. The Appeal Site extends to 66.1 hectares (ha).
- 2.2. The proposed solar farm and battery storage area will be located on fields which are separated by well established hedgerows and tree planting.
- 2.3. The remaining wider site area is proposed for the underground cabling to provide connection to the National Grid Rayleigh Substation.



**Figure 1: Site Location Plan including Council administration boundaries**

- 2.4. The solar farm and battery storage facility are located wholly within the administrative area of Chelmsford City Council (CCC), along with a proportion of most of the underground connection corridor (61.1ha). A section of the grid connection route lies within the administrative boundary of RDC (5ha), together with the Rayleigh Substation, which will receive the exported electricity from the Proposed Development, approximately 3km to the south of the Site.
- 2.5. The topography of the Appeal Site generally slopes from approximately 23m AOD near Runwell Road (A132) in the northern part of the Site to approximately 3m AOD near the River Crouch (south western part of the Site). Land also slopes gently towards the central watercourse within and adjacent to the Site.
- 2.6. The watercourse within the site follows the route of the north-south oriented access track linking Runwell Road with Southlands Farm. A public right of way (footpath 231-8) intersects 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 most of the Appeal Site lies within Flood Zone 1 (low risk) with minor areas of the 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 located in the northeast corner of the Appeal Site.
- 2.10. There are no designated heritage assets within the Appeal Site and it is not within a Conservation Area. The nearest listed buildings are at Bear Hall (Grade II), St Marys Church (Grade I) and the Old Rectory (Grade II) to the west and east. There are also listed buildings to the south at Shot Farm which is within the Basildon District Council administrative area.
- 2.11. There are two non-designated heritage assets within the western part of the Appeal Site comprising two pillboxes, which form part of a series of features that formed the GHQ defence line construction in 1940 to slow a possible German invasion.



- 2.12. There is a further non-designated heritage asset to the north of the Appeal Site which is a former mid-nineteenth century county house that currently operates as a Toby Carvery.
- 2.13. The Appeal Site is located wholly within the Green Belt.

### 3. The Appeal Proposals

#### The Proposed Development

- 3.1. Full Planning Permission is sought for the following description of development ('the Application'):

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

- 3.2. The Application seeks Planning Permission for the construction of a solar farm and battery storage with a capacity of not more than 49.9MW for a temporary period of 40 years from the date of the first exportation of electricity from the Appeal Site. The decommissioning of the Appeal Site and its restoration is to be addressed by the imposition of conditions.
- 3.3. The cross-boundary Application was allocated references 23/00532/FUL and 23/00285/FUL by CCC and RDC respectively. RDC subsequently devolved their powers to determine the application to CCC (Appendix 1).
- 3.4. The Decision Notice issued by CCC on 6 December 2023 (Appendix 2) did not refer to Rochford District Council or any Rochford Development Plan policies.
- 3.5. Subsequently, on 19 April 2024 a second Decision Notice was issued. The Decision Notice (Appendix 3) has been issued on behalf of CCC and RDC who are both named on the Decision Notice, but the refusal still only includes the CCC application reference. The 'joint' Decision Notice also still makes no reference to any Rochford Development Plan policies and the Reasons for Refusal are as set out on the original 6 December Decision Notice.

#### Proposed Development

- 3.6. The Application 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. It would have an export capacity of up to 49.9 megawatts.
- 3.7. Provision is also made for a battery storage facility which would be utilised to reinforce the power generation of the solar farm as part of the Appeal Scheme.
- 3.8. All associated plant and equipment, together with associated development such as CCTV and fencing is included within the Application.

- 3.9. The Appeal Scheme would operate for a temporary 40 year time period and at the end of this period the Appeal Scheme would be decommissioned, the equipment removed from the Appeal Site, and the restored site would then continue in agricultural use. The decommissioning of the Site, and its restoration will be addressed by the imposition of conditions.
- 3.10. The connection to the grid would be at the National Grid Rayleigh Substation approximately 3km to the south of the Appeal Site.
- 3.11. Although the Appeal Site is 66.1ha in total, it would not all be 'developed' as a result of the Appeal Scheme. Beneath and between the rows of PV solar panels vegetation will remain, which will be further improved through a Biodiversity Management Plan which could be secured by condition.

#### Solar Arrays

- 3.12. The solar PV panels would be laid out in straight arrays in a north-south orientation 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.

#### Inverters and Transformers

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

#### Battery Storage Facility

- 3.15. The 24 no. 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 are surrounded by welded steel wire mesh fencing with a height of 2.4m.

### Substation

- 3.16. An on-site substation and switchgear compound would be co-located with the battery plant and would consist of two no. buildings. Both would have a height of 3.9m and be surrounded by welded steel wire mesh fencing with a height of 2.4m.
- 3.17. 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

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

### Perimeter Fencing and CCTV

- 3.19. A 2 metre high perimeter fence (loose metal mesh between wooden posts) with CCTV cameras mounted on poles of between 2.5m and 3m would be installed for security. There would also be a 3m high pole-mounted weather station on the Control Room.

### Access

- 3.20. The Appeal Scheme will include internal access roads throughout the Appeal Site allowing for the movement of construction and maintenance vehicles.
- 3.21. The Appeal Site will be accessed via an existing gated access from the A132 Runwell Road to the north. The site access will be left in, left out only as a result of the layout of Runwell Road in this location.

### Landscaping

- 3.22. 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).
- 3.23. The layout of the Appeal Site has been designed to ensure that there is minimal works to existing trees and hedgerows within the Appeal Site. The trees surveyed have informed the

overall layout of the Proposed Development, which has been carefully designed to avoid impacts on arboricultural features. The Arboricultural Impact Assessment (“AIA”), submitted as part of the planning application, confirms that there are no significant individual trees to be removed to facilitate the development proposal. 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. The AIA confirms that two of the hedgerows are moderate-quality (H2 and H25), and the one of the hedgerows is assessed as low-quality (H26).

3.24. Paragraph 6.4 of the AIA confirms that:

*“The removal of a section of H2 is to provide a direct connection between two different areas and avoids the root protection areas (RPAs) of more significant trees; there is an existing track at this point and the removal is to allow reinstatement of this track. The removal of 2 sections from H26 and H28 is to facilitate access and the installation of perimeter security fencing; this will in the long-term prevent ‘orphan’ sections of hedgerow from being created. In the instance of H26, many of the stems proposed for removal are dead or in decline. The loss of these sections can be mitigated with additional planting elsewhere on-site. The restoration of existing hedgerows would be a suitable opportunity to maintain the integrity of existing features and increase biodiversity.”*

3.25. Where required, gaps in hedgerows will be infilled and enhanced with appropriate native hedgerow species supplemented with native tree planting to reflect local landscape character and a further 1,800m of new hedgerows are also proposed across the site adjacent to sections of the on-site Public Rights of Way (PRoW).

3.26. The landscape proposals for the development proposals are intended to mitigate potential visual effects. The Proposed Development seeks to retain and enhance existing landscape elements wherever possible, so as to further integrate the proposals into the surrounding landscape.

3.27. The significant enhancement of the biodiversity of the Appeal Site is demonstrated through the biodiversity net gain calculation (metric 3.1) which confirms that the biodiversity would be significantly improved with +138% for habitats and +85.1% for hedgerows, which would be delivered through the implementation of the Appeal Scheme.

#### 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 will 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 Appeal Scheme, the development would be decommissioned. All electricity generating equipment and built structures associated with the Appeal Scheme would be removed from the Appeal Site and it would continue in agricultural use. All existing and proposed planting would have been established over the project's lifetime and continue to remain as a positive legacy in landscape character and visual amenity terms.
- 3.32. It is envisaged that the decommissioning of the solar farm would take approximately six months.



## 4. Planning History

- 4.1. There are no relevant development control applications/decisions made at the Appeal Site, save for those which relate to uses associated with general agriculture at the Appeal Site.
- 4.2. An Environmental Impact Assessment (EIA) Screening Request in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (As amended) for a proposed solar farm on the Appeal Site was submitted by the Appellant to CCC on 29<sup>th</sup> April 2022. This provided details of the baseline condition, the proposed approach to the assessment and the likely potential effects arising from the Proposed Development.
- 4.3. A Screening Opinion (reference: 21/O1186/SCREEN) was issued on 8<sup>th</sup> June 2022 confirming that an Environmental Statement (ES) would not be required under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

## 5. Application Plans and Documents

- 5.1. The application plans and supporting documents that comprised the planning application at the time that it was determined are set out in full in the accompanying Draft Statement of Common Ground.
- 5.2. Copies of these documents have been provided to the Inspectorate at the time of submitting the Appeal.

## 6. Climate Change and Carbon Reduction

- 6.1. In 2019, Parliament declared that the UK is facing a climate change emergency and the Government considers that meeting energy security and climate change goals is urgent and of critical importance to the country.
- 6.2. There is a plethora of legislation, policy and guidance which supports the transition to a low carbon future and the continued roll out of renewables and low carbon energy and associated infrastructure.
- 6.3. The UK is part of an international effort to combat climate change and, as part of its contributions, the UK has put in place domestic legislation and policies to reduce greenhouse gas emissions and a net zero target by 2050. Decarbonising the power sector by 2035 is an integral part in achieving this target and requires major investment into renewable technologies and infrastructure.
- 6.4. The continued deployment of Solar PV, and renewable energy technologies more generally, have been consistently recognised by the Government as a key part of the UK's transition to achieving a low carbon economy and tackling climate change. Indeed, the Government expects that low cost renewable generation will form the foundation of electricity generation and specifically for there to be a five-fold increase in ground mounted and rooftop solar capacity to 70GW by 2035.
- 6.5. While at a local level both CCC and RDC have declared climate and ecological emergencies which provides further context for this Appeal and the proposed development would support the intentions of these declarations.
- 6.6. The Appellant will refer to the relevant climate change legislation, policy and guidance in evidence as part of its case. This will include:
  - The Paris Agreement (2016)
  - Climate Change 2021: The Physical Science Basis
  - Net Zero – The UK's contribution to stopping global warming advice report (2019)
  - National Infrastructure Strategy (November 2020)

- The Sixth Carbon Budget (December 2020)
- Energy White Paper (December 2020)
- Independent Assessment of UK Climate Risk (June 2021)
- 2021 Progress Report to Parliament (June 2021)
- Net Zero Strategy: Build Back Greener (October 2021)
- Independent Assessment: The UK's Net Zero Strategy (October 2021)
- Environment Act 2021 (November 2021)
- UK Climate Change Risk Assessment 2022 (January 2022)
- British Energy Security Strategy (April 2022)
- Powering Up Britain suite of documentation (March 2023)
- Future Energy Scenarios (July 2023)
- UK Battery Strategy (November 2023)
- Written Ministerial Statement: Solar and protecting our Food Security and Best and Most Versatile (BMV) Land (May 2024)

6.7. If relevant, any further announcements by the Government between the submission of the Appeal and the opening of the Public Inquiry will be referred to.

6.8. Reference will be made to the national progress in meeting these carbon reduction targets, including:

- Achieving Net Zero, published by the National Audit Office (December 2020);
- The latest version of the 'Digest of United Kingdom Energy Statistics', currently the July 2023 version.

6.9. Reference will be made to local progress made to meeting these carbon reduction targets, including the reporting of any progress made by CCC in addressing their climate and



ecological emergency (declared July 2019), and RDCs commitment to work toward becoming carbon neutral by 2030 for its own operations in their Carbon Neutral 2030 Council Strategy.

- 6.10. Reference will also be made to the Net Zero: Making Essex Carbon Neutral Report (July 2021) which includes a recommendation for *“Essex to produce enough renewable energy within the county to meet its own needs by 2040.”*

## 7. Planning Policy

- 7.1. The planning policies and guidance that will be of most relevance to this Appeal will be set out in the Statement of Common Ground (SoCG). It is anticipated that the main planning policy issues will be agreed with the LPAs prior to the opening of the Public Inquiry.

### **The Development Plan**

- 7.2. The Appellant will refer to the Development Plan applicable to the Appeal Site where it is located in the jurisdiction of CCC. The CCC Development Plan comprises:

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

- 7.3. In respect of the section of the underground grid connection cable linking the Proposed Development to the Rayleigh National Grid Substation which is located within the jurisdiction of RDC, 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).

- 7.4. With regard to emerging Development Plans:

- CCC are reviewing their Local Plan and an Issues and Options consultation closed in October 2022. The Regulation 18 Preferred Options Plan is currently out to consultation until 14th June 2024. The Site remains in the Green Belt as part of the Local Plan Review.
- 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.

- 7.5. There are no "made" Neighbourhood Plans applicable to the Proposed Development within either CCC or RDC.

### **National Guidance**

- 7.6. The Appellant will refer to relevant national guidance set out in the revised 2023 National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) (March 2014, as amended).
- 7.7. The Appellant will also refer to the following national guidance:
- Overarching National Policy Statement for Energy (EN-1) (January 2024).
  - National Policy Statement for Renewable Energy Infrastructure (EN-3) (January 2024).
  - UK Government Solar Strategy 2014.

### **Supplementary Planning Guidance and Evidence Base Documents**

- 7.8. The Appellant will also refer to the following supplementary planning guidance and evidence base documents:
- Adopted Chelmsford Solar Farm Development SPD.

## 8. Evidence

8.1. On the basis that the Planning Inspectorate agrees to the Appeal being dealt with under the Public Inquiry procedure, the Appellant will prepare written proofs evidence in advance of the Inquiry to address the two no. reasons for refusal cited in both of the issued Decision Notices.

8.2. The evidence will also consider any other valid issues raised by Third Party objectors or by statutory consultees.

8.3. At this stage it is anticipated that evidence will be presented as follows:

### **Green belt openness, landscape and visual considerations**

- Andrew Cook BA (Hons) MLD CMLI MIEMA CENV

### **Planning Policy considerations and the Planning Balance**

- Paul Burrell BSc (Hons) Dip Up MRTPI

8.4. The Appellant reserves the right to introduce additional witnesses as necessary to address any other issues that may be raised by the LPAs and/or any Third Parties, and to add to its case should the Inspectorate determine that a Hearing procedure is the appropriate means of determination (which the Appellant does not agree with for the reasons set out in Section 1 of this Statement).



## 9. Case for the Appellant

- 9.1. The Appellant will present evidence to demonstrate that the scheme accords with the statutory Development Plans when read as a whole, with reference to relevant material considerations and will make relevant reference to case law, appeals etc as cited in Section 10.

### Main Issues

- 9.1. The Appellant considers that the main issues for the Appeal are currently those as set out in the two Reasons for Refusal cited by CCC, with other issues identified which flow from the main points:

- Issue 1 – What impact and level of harm the Proposed Development would have on the openness of the Green Belt.
- Issue 2 – What impact the Proposed Development would have on the landscape character of the area and whether there would be any harm to visual amenity; and whether the proposed mitigation could overcome any adverse impacts identified.
- Issue 3 – Compliance with the Development Plan and other Planning Considerations
- Issue 4 – Whether the benefits of the Proposed Development clearly outweigh the potential harm to the Green Belt and any other harm such that very special circumstances exist.

### Issue 1 – Impact and level of harm on the openness of the Green Belt

- 9.2. The Appellant accepts that the Appeal Scheme is located within the Green Belt and that it is inappropriate development in the Green Belt.
- 9.3. The Appellant will present evidence of the impact of the Appeal Scheme on the openness of the Green Belt, in respect of both its visual and its spatial qualities, and the purposes of including land within it.
- 9.4. The Appellant through evidence will examine the *spatial aspect* of openness and draw attention to the design and layout of the solar arrays, and to their spacing. The Appellant will also argue that the scheme will be in place for a temporary period of 40 years of operation after which it will be decommissioned, and land returned to its former undeveloped use. The

Appeal Scheme is therefore not permanent but of limited duration with reversible effects. The duration of a development and its remediability are matters that the NPPG advises can be taken into account when considering the potential impact of development on the openness of the Green Belt.

- 9.5. The Appellant through evidence will also examine the *visual aspect* of openness and draw attention to the Appeal Site's topography, landform and existing screening, identifying the limited visibility of the Appeal Site and how long term management proposals will contain visual impacts. The evidence will confirm that the visual impacts are limited in scale and extent and would reduce over time as the proposed planting matures. In addition, the effects will also be reversible as the Appeal Scheme is temporary. The Appellant will conclude that there will be a moderate adverse level of effect on the openness of the Green Belt arising from the Appeal Scheme.
- 9.6. The Appellant will refer to paragraph 143 of the NPPF and examine each of the five purposes of the Green Belt and identify whether there is any harm in respect of each of these five purposes. In evidence, the Appellant will refer to the submitted Green Belt Assessment which formed part of the Planning Statement accompanying the Application. Specifically, its conclusion that the Proposed Development would result in limited harm to one (purpose 3, safeguarding countryside from encroachment) of these five purposes will be evidenced, and it will be concluded that the strategic performance and function of the remaining Green Belt would remain intact.
- 9.7. The Appellant will also identify other harm arising from the proposed development, with specific regard to:
- **Landscape and Visual matters** – the Appellant will explain in Evidence the nature of the conclusions of the submitted Landscape and Visual Impact Assessment, the positive approach proposed, and comprehensive landscaping scheme proposed. The conclusions of the Landscape and Visual Impact Assessment will be evidenced, where the landscape proposals and ongoing management would help to integrate the solar development into the surrounding landscape and reduce views to the proposed development on completion meaning that the total extent of the landscape and visual effects would be localised and limited in nature.

- **Built Heritage matters:** the Appellant will explain that the effect of the Proposed Development on the heritage significance of designated and non-designated heritage assets within the Appeal Site and those located in the surrounding area.

The Appellant will explain that any identified 'less than substantial harm' to the significance of designated heritage assets should be weighed against the public benefits of the Appeal Scheme as required by NPPF paragraph 208, and that this test is satisfied having regard to the substantial public benefits which would arise from the Proposed Development.

With regard to the effect of the appeal Scheme on non-designated heritage assets, a balanced judgement will be applied as required by NPPF paragraph 209, having regard to the scale of any harm and the significance of the heritage asset, concluding that the substantial benefits arising would outweigh any putative less than substantial harm to designated or non-designated heritage assets.

- **Traffic and Access:** the Appellant will identify that the Site access from Runwell Road (A132) is suitable to serve the proposed development and will reference the consultation response to the planning application from Essex County Council, which raised no objections to the Appeal Scheme on highway grounds.

The Appellant will identify that the construction traffic impacts arising from development of the Site will be limited to the circa 6 month construction period and which will be managed by the scheme of traffic management signage including the use of banksmen. The impact of construction traffic will therefore be a) mitigated and b) limited to a temporary period.

- 9.8. The Appellant will provide evidence which demonstrates very special circumstances exist in the case of this Appeal Scheme. Having regard to the benefits outlined in detail under Issue 4 below, to the limited harm to the openness of the Green Belt (which should be afforded great weight), and to any other harms, 'very special circumstances' exist.

## **Issue 2 – Landscape and Visual Amenity Considerations**

- 9.9. The Appellant will demonstrate that contrary to the Council's Reasons for Refusal the proposed development would not be significantly detrimental to the landscape character of the area. In addition, impacts can be mitigated that would overcome any limited harm arising.

- 9.10. Policies require careful integration through existing landscape features and new planting to mitigate adverse effects to minimal levels. No policy in the Local Development Plan specifies no visibility of a proposed development whatsoever.

*The Site – Impact on the Appeal Site*

- 9.11. The Appeal Site lies within an area of gently undulating landscape containing multiple existing references to built form and infrastructure, interspersed with numerous belts of woodland and hedgerows (a typical field boundary treatment in the locality) where none of the trees within the Site boundaries are part of a designed or designated landscape.
- 9.12. In terms of landscape character associated with the Appeal Site, this is defined by the combination of various landscape elements principally topography, land cover, hedgerows, tree cover and the configuration of the fields themselves with the field pattern is sometimes referred to as the 'grain' of the landscape. With the exception of some small areas of the Proposed Development, such as the proposed access tracks, which would require the limited loss of some agricultural land, these landscape elements would be retained and remain as part of the landscape whilst the scheme is in place. Where the panels would be located the continued agricultural use would be in the form of grazing rather than arable use.
- 9.13. The agricultural use of the Appeal Site would continue with the Proposed Development in place with the Appeal Site being available for grazing, with those fields currently in arable use to be converted to pasture to allow grazing opportunities within the Appeal Site. There would be a very limited loss of agricultural land. To allow for future agriculture use, whether pastoral or arable (or a combination), the scheme would be decommissioned following the operational phase.
- 9.14. Under the Proposed Development, the grazing of sheep would ensure that the grassland is managed and maintained for the lifetime of the project. Sheep are able to graze under and between the solar panels, and the grazing density for sheep within a solar farm is not materially different to standard grazing regimes. By conversion to pasture, the land would not only have the opportunity to rest, but there would be an improvement to the soil quality through increased nutrient levels.
- 9.15. The Appeal Site is currently free of built development and therefore has a sense of openness which would, to varying extents, be affected to some degree by the proposed energy

infrastructure. It is recognised that the Proposed Development would bring about an inevitable change to the character of the Appeal Site itself, introducing solar panels and associated infrastructure superimposed over grassland which would be managed for pasture and grazing. However, such a change would, in physical terms, be confined within the Appeal Site boundaries, and the scheme would result in an overall beneficial effect upon some landscape elements within the Appeal Site when considered in the round. Existing trees within the Appeal Site would be retained as part of the substantial green infrastructure, with additional planting secured via a detailed planting plan and suitably worded planning conditions. Hedgerow and woodland blocks and belts when viewed across a low-lying topography with occasional variations, can combine to limit or allow views towards parts of the Appeal Site. These existing blocks have been used (and will be enhanced) to positively inform the design of the proposed solar development, particularly where there are existing blocks of woodland and there is little variation in the topography within this vale.

- 9.16. Furthermore, the increased vegetation growth would create a stronger sense of physical and visual containment associated with the Appeal Site. This change would reduce visual effects that would come about over the project timescale. The management and growth of the hedgerows and trees across the Appeal Site would continue as part of the landscape post-decommissioning phase and would leave a positive legacy in terms of landscape character, given that the trees and hedgerows contribute to the landscape character locally.
- 9.17. Solar energy developments are characterised by their low profile, light footprint and reversible nature. The new planting would have matured over the operational period along with the ongoing management and maintenance of the other retained features to provide a clear beneficial legacy in terms of landscape elements, enhancing the longer-term landscape character of the Appeal Site post decommissioning.
- 9.18. The proposed operational timescale of 40 years is similar for some other elements in the landscape such as timber crop production, and at the decommissioning stage built infrastructure would be removed.
- 9.19. Therefore, whilst it is accepted that during the lifetime of the development proposals, there would be a localised impact upon the landscape in respect of the Appeal Site itself, the overall fabric and character of the landscape would remain, and the fields would be returned to agricultural use after the expiry of the permission.

*Impacts on the Landscape resulting from the Development*

- 9.20. Beyond the environs of the Appeal Site the landscape character of the area would remain unchanged and there would be no change to the physical fabric of the landscape either. As a result, there would be no unacceptable cumulative landscape character effects when assessed in combination with other renewable energy proposals in the locality. With the proposed scheme in place, the character of the fields within the Appeal Site would change as they would accommodate solar arrays, but the underlying character of the field pattern would remain.
- 9.21. The Appellant will demonstrate that the development proposals could be successfully accommodated within the existing landscape pattern and could be assimilated into the surrounding landscape without causing any long-term harm to the landscape character, visual amenity, or existing landscape attributes of the area.
- 9.22. The numerous public rights of way in the locality within and beyond the Appeal Site would be physically unaffected by the scheme in place. There would be no direct effects on existing watercourses within the Appeal Site, with the Proposed Development designed to allow a separation buffer between these features and the proposed built form.
- 9.23. There is not one publicly accessible location, such as on the local public right of way or road where the entirety of the proposed solar farm could be experienced owing to the intervening topography and vegetation. Whilst there are short sections of the local public rights of way network where it could be possible to experience views of sections of the proposed solar farm, there would be no opportunities to observe the whole scheme to appreciate its scale.
- 9.24. Evidence will be presented to explain how the proposal has been designed to accommodate existing public rights of way and provide mitigation for visual effects through the implementation of the proposed landscape strategy. Reference will be made to the photographs within the Landscape and Visual Impact Assessment.
- 9.25. There is a network of public rights of way across the surrounding landscape beyond the Appeal Site. The majority of these public routes would be visually unaffected by the proposed solar farm as it would be screened from view by a combination of topography and vegetation in the intervening landscape. Only a few short sections of public rights of way and road network would be visually affected by the proposals. There would be some adverse visual

effects associated with the scheme, however, the overall viewing experience and appreciation of the surrounding rural landscape would continue to prevail with the proposed solar farm in place.

- 9.26. The Appellant will present evidence on the visual effects on the locality. The appeal proposal's visual characteristics are informed by the Screened Zone of Theoretical Visibility ("SZTV") which shows that the locations from which the Proposed Development would be visible are geographically limited.
- 9.27. In overall terms, the visual effects of the proposed solar farm would be very limited due to its substantial visual containment as a result of a combination of topography and surrounding vegetation. Where seen, only small elements of the scheme would be observed thereby reducing its perceived scale in the rural landscape.

### **Issue 3 – Development Plan and other Planning Considerations**

- 9.28. As well as the demonstration of very special circumstances, the Appellant will consider other planning matters as follows.
- 9.29. The Appellant will demonstrate that the Proposed Development is in accordance with the Development Plans for CCC and RDC, when read as a whole and that very special circumstances exist, which outweigh the harm to the Green Belt by reason of inappropriateness, and any other identified harm.
- 9.30. The Appellant will explain that there is an immediate and urgently pressing need for the deployment of both Solar PV and also battery energy storage systems to be a key part of the UK's transition to achieving a low carbon economy and tackling Climate Change. The Appellant will further explain that the application of the Government's energy policy framework is a significant material consideration in the determination of this Appeal.
- 9.31. The Appellant will submit that the Proposed Development is in general accordance with the Development Plan when read as a whole and, even if the Inspector were to conclude that there would be some conflict with relevant policies:
- that would not necessarily lead to a conflict with the Development Plan taken as a whole; and

- if it did, there are significant identified benefits that constitute material considerations indicating development should be approved notwithstanding that conflict.

#### **Issue 4 – Demonstration of Very Special Circumstances**

- 9.32. The Appellant will provide evidence which demonstrates very special circumstances exist in the case of this Appeal Scheme. The considerations which contribute to the demonstration of very special circumstances, are outlined further below at Issue 4.
- 9.33. Increasing Renewable Energy Generation – the Appellant will explain that the Appeal Scheme would supply up to 49.9MW to the National Grid, providing the equivalent annual electrical needs of approximately 6,098 family homes in England. The anticipated CO2 displacement is around 5,130 tonnes per annum, which represents an emission saving equivalent of a reduction in approximately 1,680 cars on the road every year.
- 9.34. The Appellant will draw attention to the specific mention in the NPPF at paragraph 156 which notes that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
- 9.35. The Appellant will also note as a material consideration that the starting point for the consideration of Critical National Priority Infrastructure projects in EN-1, is that in the Green Belt the very special circumstances test is deemed to have been met as a starting point.
- 9.36. The Appellant will also identify the economic and social benefits arising from the delivery of renewable energy and how the development will contribute to the UK's engagement in delivering Net Zero by 2050.
- 9.37. Climate Emergency – the Appellant will explain that CCC declared a Climate Emergency in July 2019, and that RDC made a commitment to work toward becoming carbon neutral by 2030 in the July 2020 'Carbon Neutral 2030 Council Strategy'. In addition, Essex County Council set up the 'Essex Climate Action Commission' in July 2021 where the 'Net Zero: Making Essex Carbon Neutral Report' included a recommendation for *"Essex to produce enough renewable energy within the county to meet its own needs by 2040."*
- 9.38. The Proposed Development will make a valuable contribution to the delivery of these objectives.



- 9.39. Energy Security – the Appellant will explain that Proposed Development will supply renewable energy to the National Grid, comprising secure, distributed and diversified energy generation which fully accords with the Government policy on energy security. In addition, the battery storage element of the Proposed Development will increase the UK's energy security by providing a flexible supply of energy at times of peak demand.
- 9.40. Best Available Technology – the Appellant will explain the Proposed Development will comprise the latest best available technology that delivers greater levels of solar efficiency by utilising a solar tracking system together with bi-facial panels, which increase continuous electrical productivity by 20-25% when compared to traditional fixed solar arrays.
- 9.41. Energy Storage – The Appellant will explain that the battery storage facility would complement the power generation of the solar farm by providing electricity network security advantages in assisting the management peak demands for electricity on the national grid, providing security of supply.
- 9.42. Good Design – the Appellant will explain that the overall design and layout of the Appeal Scheme has been designed to minimise harm within the Appeal Site and the wider area, whilst providing significant benefits.
- 9.43. Alternatives – the Appellant will explain the alternatives considered through the evolution of the design and location of the Appeal Scheme, including explaining the alternative sites considered with reference to the Alternative Site Assessment submitted with the planning application. While the Appellant is not required to carry out an assessment of alternative sites, it will be shown that within the defined Study Area, which is centred on the National Grid substation at Rayleigh where the Appellant has secured a grid connection offer, there are no alternative sites which are more suitable and available for the Appeal Scheme.
- 9.44. Biodiversity net gain – the Appellant will explain that there will be significant biodiversity benefits and will refer to the Landscape and Ecological Management Plan which accompanied the Application. It will be explained that the Appeal Scheme will result in a Biodiversity Net Gain of +137.96% for habitats and +85.1% for hedgerows through the implementation of the Proposed Development, significantly exceeding the 10% requirement in the Environment Act 2021.

- 9.45. Soil regeneration – the Appellant will explain that the conversion of land from arable to grassland which is uncultivated for a period in excess of 12 years will increase soil organic matter and hence soil organic carbon will assist in protecting and improving the soil resource.
- 9.46. Green infrastructure – the Appellant will explain that the enhanced landscape structure will greatly improve green infrastructure and connectivity across and within the Appeal Site. The Appellant’s evidence will also demonstrate that the Appeal Scheme delivers a multi-purpose land use: the generation of renewable energy; continuing agricultural activity through grazing; environmental stewardship through the creation of wildlife habitats and carbon sequestration through the planting of new trees and hedgerows. This benefit accords with Section 11 of the NPPF and in particular paragraph 123 by safeguarding and improving the environment and increasing biodiversity.
- 9.47. Farm diversification – the Appellant will explain that renewable energy is an important form of farm diversification, drawing attention to NPPF paragraph 88.
- 9.48. Grid connection – the Appellant will explain the advantages of connecting directly into the National Grid (Transmission) Network (at the Rayleigh Green Substation) rather than the Distribution Network, including avoiding considerable delays in securing a connection agreement via the Distribution Network Operator (DNO). The availability of a Grid Connection offer in terms of the Appeal Scheme being able to make an early contribution to the generation of low carbon energy will also be explained.
- 9.49. Economic benefits – the Appellant will explain that the Appeal Scheme also represents a significant financial investment, with benefits to the local economy during the construction period including from the temporary jobs created (both direct jobs on-site and indirect/induced roles in the wider economy). Annual business rate contributions will also benefit the economy through income over the life of the project.

#### **Very Special Circumstances – Summary**

- 9.50. The Appellant accepts that, in accordance with paragraphs 152 and 153 of the NPPF, inappropriate development is by definition harmful and carries substantial weight. Such development should not be approved except in very special circumstances. 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 Proposed Development, is clearly outweighed by other considerations.

- 9.51. The Appellant will conclude that, having regard to the limited, and temporary, harm to the openness of the Green Belt (which should be afforded substantial weight), and to any other harms, these harms are clearly outweighed by the identified benefits of the Appeal Scheme, such that very special circumstances are demonstrated to exist.

## 10. Documentation

- 10.1. A set of Core Documents will be agreed with the Councils in advance of the Public Inquiry.
- 10.2. In addition to the application documents, planning history and consultation responses, and the documents previously referred to in this Statement of Case, it is anticipated that the following will also be referred to.

### Relevant Appeal Decisions and Legal Cases

Various legal judgements, including:

- R. v Rochdale MBC ex parte Milne [2000]
- City of Edinburgh Council v Secretary of State for Scotland [1997]
- SSCLG, Reigate and Banstead Borough Council and Tandridge District Council v Redhill Aerodrome Limited [2014] EWCA Civ 1386
- R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3
- John Turner v SSCLG and East Dorset Council [2016] EWCA Civ 466
- Europa Oil and Gas Limited v SSCLG, Surrey County Council and Leath Hill Action Group [2013] EWHC 2643 (Admin) (upheld at [2014] EWCA Civ 825)

Various recent appeal decisions, including but not limited to:

- East Hanningfield, Chelmsford: APP/W1525/W/22/3300222. Appeal allowed on 6<sup>th</sup> February 2023 for construction and operation of a solar farm and battery storage system together with all associated works, equipment and necessary infrastructure.
- Land west of Battlesbridge, Rettendon, Wickford: APP/W1525/W/22/3306710. Appeal allowed on 23 January 2024 for battery energy storage system and ancillary development.
- Gillingham, Dorset APP/D1265/W/22/3300299 ("*Gillingham*"), solar farm and battery storage. Allowed on 13<sup>th</sup> February 2023

- Bramley, Hampshire APP/H1705/W/22/3304561 ("*Bramley*"), solar & battery storage. Allowed on 13<sup>th</sup> February 2023
- New Works Lane, Telford APP/C3240/W/22/3293667 ("*Telford*"), solar farm. Allowed by Secretary of State on 27<sup>th</sup> March 2023
- Herongate, Essex APP/V1505/W/22/3301454 ("*Herongate*"), solar farm. Allowed on 5<sup>th</sup> April 2023
- Wellington, Telford APP/C3240/W/22/3308481 ("*Wellington*"), solar farm. Allowed on 9<sup>th</sup> May 2023
- Berden, Essex S62A/22/OO06 ("*Berden*"), solar farm, planning application granted by Secretary of State on 9<sup>th</sup> May 2023.
- South Hetton, Durham APP/X1355/W/22/3308881 ("*Durham*"), solar farm. Allowed on 25<sup>th</sup> May 2023
- Scruton, Yorkshire APP/G2713/W/23/3315877 ("*Scruton*"), solar farm. Allowed on 27<sup>th</sup> June 2023
- Longfield, Essex EN010118 ("*Longfield*"), solar farm. Allowed by Secretary of State on 27<sup>th</sup> June 2023
- Land east of Squirrel Lane, Ludlow (APP/L3245/W/23/3314982), solar farm. Allowed on 7<sup>th</sup> July 2023
- Land at Halse Road, Greatworth (APP/W2845/W/23/3315771), solar farm and battery stations. Allowed on 14<sup>th</sup> November 2023
- Land north of Little Cheveney Farm, Sheephurst Lane, Marden (APP/U2235/W/23/3321094), solar farm, associated electricity generation infrastructure and ancillary equipment. Allowed on 5<sup>th</sup> February 2024
- Land at Graveley Lane and to the east of Great Wymondley (North Hertfordshire ref: 21/O3380/FP, application called-in), solar farm with associated battery storage and ancillary development. Allowed by SoS 11 March 2024

- Land to south of Marsh Farm, Fobbing (APP/M1595/W/23/3328712), solar farm and battery storage and ancillary development. Allowed on 22 March 2024
- Land adjacent to Harlow Road, near Roydon, Essex (APP/J1535/W/23/3334690), construction and operation of a solar photovoltaic ('POV') farm and associated infrastructure including inverters, DNO substation, customer switchgear, security cameras, fencing, access tracks and landscaping. Allowed on 3 May 2024.

10.3. The Appellant reserves the right to refer to additional documents to those outlined above in preparation of its case and in support of the proposals.

## 11. Planning Conditions and Obligations

### Planning Conditions

- 11.1. It is expected that an agreed set of conditions will be provided to the Inspector prior to the commencement of the Public Inquiry.

### Planning Obligations

- 11.2. At the time of submitting this Appeal, the Appellant does not envisage the need for an agreement under S106 of the Town & Country Planning Act.



## **Appendix 1 – RDC Report devolving powers to CCC for Application Determination**



## DELEGATED REPORT

CASE OFFICER	TEAM LEADER	Comino CHECKED	Uniform CHECKED		Uniform Expiry Dates CHECKED	
KR 26.04.23		KR 26.04.2 3	Neighbour letters date sent	N/A	Neighbour letter Expiry date	N/A
			Consultation letters date sent	N/A	Consultation letters Expiry date	N/A
			Site Notice date displayed	N/A	Site Notice Expiry date	N/A

<b>Reference :</b> 23/00285/FUL	<b>Site :</b> Street Record, Chelmsford Road, Rawreth
<b>WARD:</b> Downhall And Rawreth	<b>Proposal:</b> Installation of a solar farm with battery storage and associated infrastructure land south of National Grid.

<b>Applicant:</b> Enso Green Holdings J Limited	<b>Validated:</b> 29.03.2023  <b>DATE:</b> 26th April 2022
<b>Case Officer:</b> Katie Fowler	

### Allocations: MGB

## 1.0 PURPOSE OF REPORT

- 1.1 To seek approval from the 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.'

## 2.0 CONSIDERATION

### SITE

- 2.1 The red-lined application site is shown on the submitted Location Plan and includes the area of land where the solar farm and associated infrastructure would be installed and land extending from this land beneath which underground cables would be laid to connect the solar farm to the point of connection at the site of the National Grid Rayleigh Substation. That part of the application site where the proposed solar panels

and associated infrastructure would be installed is a site contained entirely within land under the jurisdiction of Chelmsford City Council. This part of the site extends to some 66.1 ha and is an irregularly shaped site located to the southern boundary of Chelmsford City Council's district close and in part adjacent the boundary with land falling within Basildon Borough Council.

- 2.2 At its closet point, that part of the application site where the solar panels and associated infrastructure would be installed would be approximately 0.25 miles due west of the Rochford District Council boundary as it follows the meander of the River Crouch through Battlesbridge. The site would be west of the A1245 and the A130.
- 2.3 That part of the application site that falls within Rochford District Councils administrative area almost entirely comprises of a section of the A1245 extending from the junction with the Hawkhill Roundabout, north of Battlesbridge, to the junction with the A129 (Carpenters Arms roundabout) to the south, beneath which the proposal involves the laying of cables.
- 2.4 The proposed underground cable route would include a section off the A1245 close to the junction with the Carpenters Arms roundabout along Chelmsford Road to connection with the A129 along which the cable would run westward for a short section before diverting south to the site of the National Grid Rayleigh Substation. beneath which the proposal involves the laying of cables.

## PROPOSAL

- 2.5 The proposal is for full planning permission and a suite of supporting plans and documents have been submitted with the application. The application is not accompanied by an Environmental Statement submitted in relation to the Town and Country Planning (Environmental Impact Assessment) Regulations (2017) as a Screening Opinion was issued by Chelmsford City Council to confirm that the proposal would not be developed subject to these regulations.

## CROSS-BOUNDARY ISSUES

- 2.6 National planning practice guidance states that where a site which is the subject of a planning application straddles one or more local planning authority boundaries, the applicant must submit identical applications to each local planning authority. The site to which application relates straddles the Rochford District and Chelmsford City boundaries. The applicant has duly submitted identical planning applications to both local authorities.
- 2.7 Rochford District Council could proceed to determine the cross-boundary application that has been submitted to this Council. However, as an identical application has also been submitted to Chelmsford City Council, this could lead to the two separate planning authorities making individual determinations which may be inconsistent in terms of the conditions attached and the obligations entered into. Alternatively, both authorities might resolve to refuse consent but for different reasons. This approach is not recommended as it would not promote a coordinated approach to development management. It would also be contrary to Government guidance, which encourages joint working between Local Planning Authorities in relation to the use of their planning powers. The National Planning Policy Framework (NPPF) advises that public bodies have a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to strategic priorities.
- 2.8 In this case, only the proposed underground cabling would fall within Rochford District Council's administrative boundary. No other part of the red-lined application site would

directly border the administrative boundary of Rochford District. The significant majority of the application sites falls within Chelmsford City Council's administrative area. The red-lined application site submitted on the four Location Plans is provided in Appendix 1 below. In the top right-hand corner of the Location Plans the application site is shown in relation to the administrative boundaries.

- 2.9 The vast majority of the considerations in the determination of the application would relate to the above ground operational development involving the construction of the solar panels and associated infrastructure. The proposed underground cabling would have no impact above the surface of the ground, and it is therefore considered that this part of the proposal could be appropriately considered by Chelmsford City Council as part of the determination of the acceptability of the main above-ground development, all of which is proposed to land within their administrative boundary.
- 2.10 In respect of key material planning considerations, Rochford District Council would carry out statutory consultation and provide responses to Chelmsford City Council for consideration in the determination of the applications. The Highways Authority and Lead Local Flood Authority both Essex County Council are in any case the same statutory consultees for both local planning authorities.
- 2.11 In the event that Rochford District Council delegated powers to Chelmsford City Council to determine the duplicate application, Rochford District Council would still have the opportunity to provide comments to Chelmsford City Council for consideration in their determination of the applications.
- 2.12 As all of the land within the application site where above ground development is proposed falls within Chelmsford City Council's administrative boundary, the application consideration would require detailed assessment of the proposal against relevant planning policy contained within Chelmsford City Council's adopted development plan. Chelmsford City Council are best placed to carry out a detailed assessment of the proposal against relevant policies in their adopted development plan.
- 2.13 It is considered that the interests of this authority in the consideration of the application would be appropriately addressed in this authority's role as a consultee in the planning process and it is considered appropriate to delegate Rochford District Council's development management functions to Chelmsford City Council. In the event that a decision was taken to do this, confirmation would be sought by Chelmsford City Council that it would accept the request by Rochford District Council to devolve planning powers and delegate its development management function in respect of this application.
- 2.14 National planning practice guidance states that the planning application fee for cross-boundary applications is payable solely to the authority of wherever area contains the larger or largest part of the whole application site; in this case this is Chelmsford City Council as the significant majority of the land subject to the application lies within Chelmsford City Council's administrative area. Costs associated with the determination of both applications including the commissioning of any specialist consultee advice where necessary would be borne by Chelmsford City Council in the event that Rochford Council delegated its decision-making powers to Chelmsford City Council. In the event that Rochford Council did not delegate powers to Chelmsford City Council, Rochford Council would incur the full costs associated with the administration of the application determination in the absence of any planning application fee.

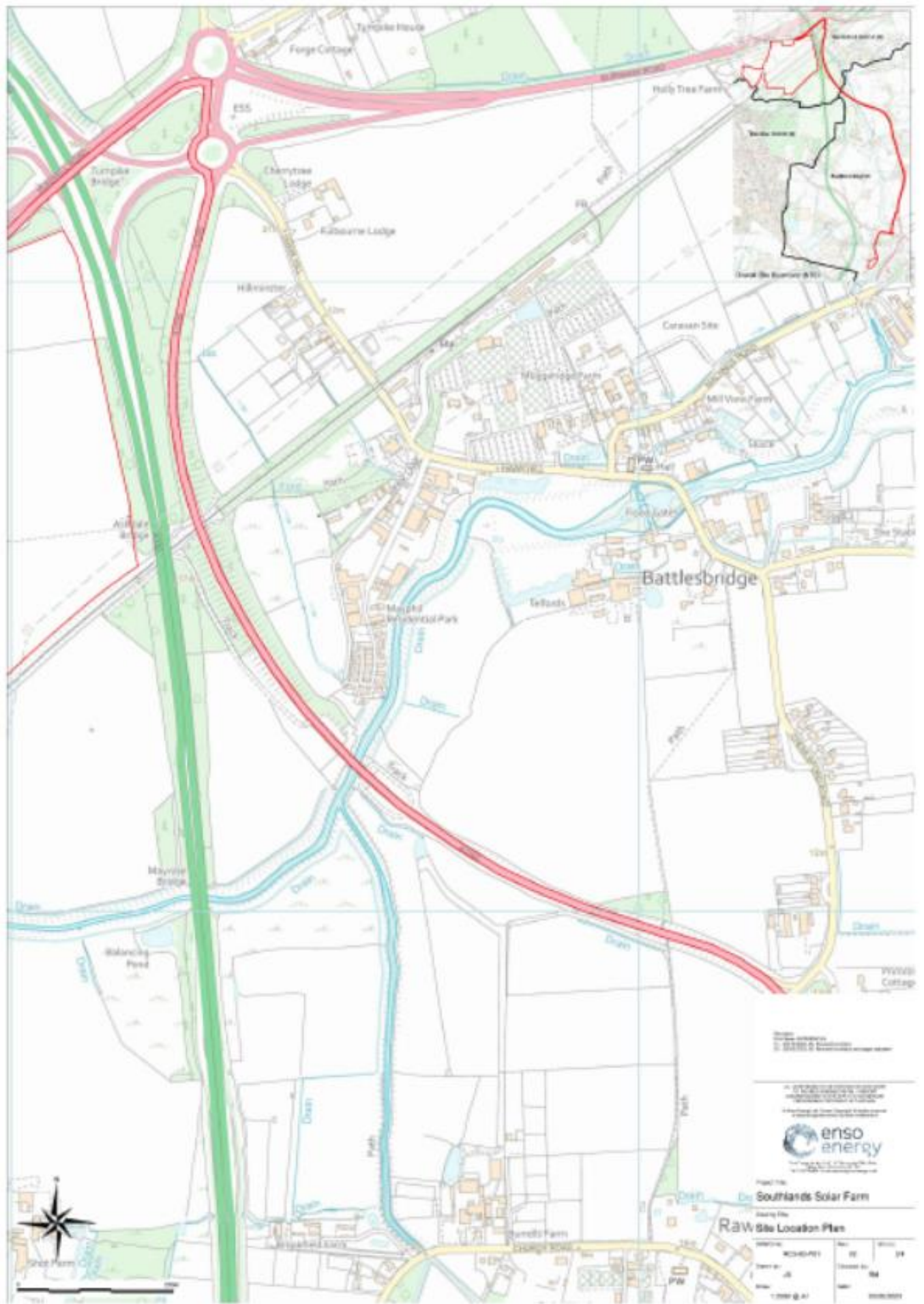
- 2.15 Section 101(1) of the Local Government Act 1972 authorises a local authority to arrange for the discharge of functions by any other local authority. In this way it is possible for one Local Planning Authority to delegate its development control functions to another in respect of a specific cross-boundary planning application or site.
- 2.16 In this case Rochford District Council could delegate its decision-making powers to Chelmsford City Council in respect of this cross-boundary planning application. Chelmsford City Council, which has been paid the full application fee, would then determine both the application submitted directly to it and the identical application submitted to Rochford District Council. If Chelmsford City Council were minded to grant consent for the cross-boundary development, it could grant planning permission authorising the development applied for in both of the administrative areas under the two planning applications. Rochford Council could also delegate the function of agreeing the terms of any necessary planning obligation under section 106 of the 1990 Act, subject to this Council's final approval. Rochford Council would be the enforcing authority for any planning obligation relating to that part of the development in the Council's area and if the obligation was in the form of an agreement Rochford Council would need to be a party to the agreement. Alternatively, Chelmsford City Council could resolve to refuse consent in which case the applicant would have the opportunity to appeal against the decisions to the Planning Inspectorate.
- 2.17 Rochford Council would have the opportunity to highlight relevant planning policies in their consultation response to ensure that Chelmsford City Council are aware of relevant policies in Rochford's adopted Development Plan to take account of in making their decision in respect of the application.

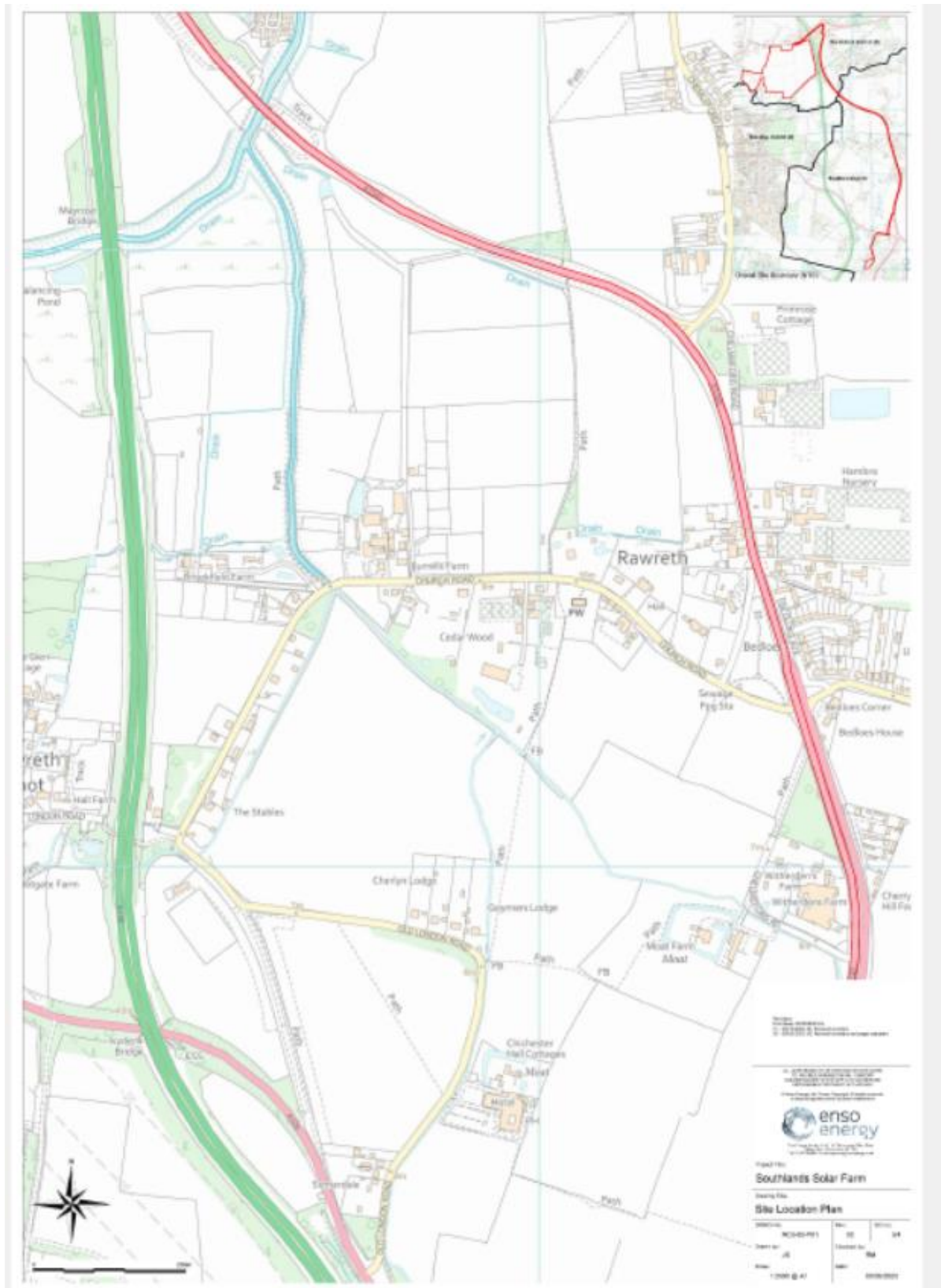
### **3.0 CONCLUSION**

- 3.1 It is recommended that, in accordance with s101 of the Local Government Act 1972, Rochford District Council devolve to Chelmsford City Council the discharge of Rochford District Council'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 reference 23/00285/FUL in relation to land at Street Record, Chelmsford Road, Rawreth, Essex and its functions under section 106 of the same Act to negotiate the terms of any necessary planning obligation subject to Rochford Council's final approval.

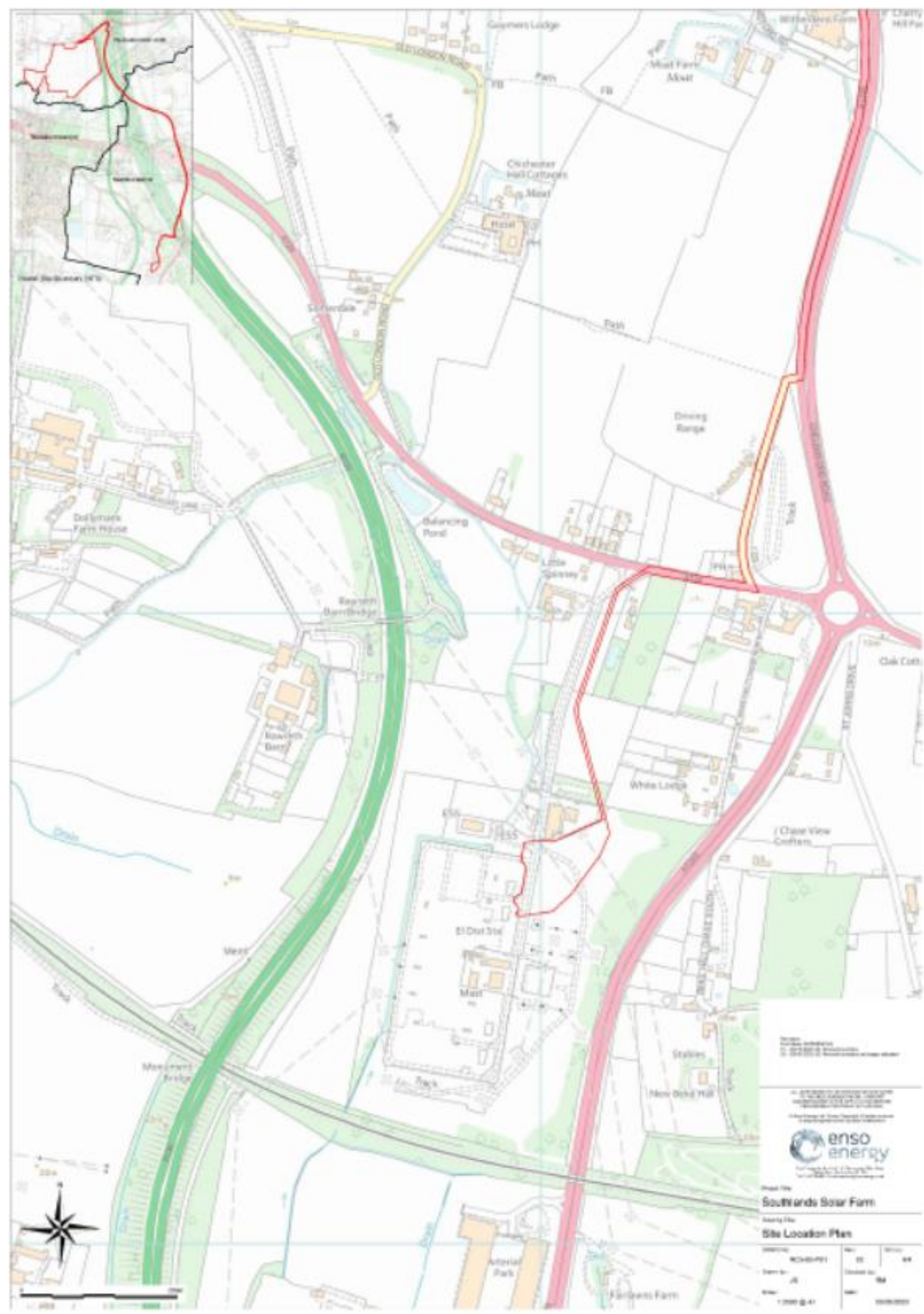
















## **Appendix 2 – CCC Decision Notice, issued 6<sup>th</sup> December 2023**



## TOWN AND COUNTRY PLANNING ACT 1990

**Agent:**

Mr Richard Moore  
Enso Energy  
Unit 1 & 2  
Cirencester Office Park  
Tetbury Road  
Cirencester  
GL7 6JJ

**Applicant:**

Enso Green Holdings J Limited  
C/o Agent

### REFUSAL OF PLANNING PERMISSION

LOCATION: Land South Of Southlands Cottages Runwell Road Runwell Wickford Essex  
PROPOSAL: Installation of a solar farm with battery storage and associated infrastructure  
APPLICATION NO: 23/00532/FUL  
DATE RECEIVED: 6 April 2023  
DRAWING NO(s): Southlands Solar Farm Flood Risk Assessment Addendum; Winter Bird Survey 2022-2023; Appeal Decision APP/W1525/W/22/3300222; Report to Inform a Habitats Regulation Assessment; RC3-02-P17 4/4; RC3-02-P17 3/4; RC3-02-P17 2/4; RC3-02-P17 1/4; P22-1918\_EN\_OO3/E; Outline Skylark Mitigation Strategy; Road Safety Audit Stage 1; Proposed Temporary Signage Locations for Construction Traffic; Designers Response to Stage 1 Road Safety Audit; SK04; SK03; RC3-02-P01 4/4/02; RC3-02-P01 1/4/02; RC3-02-P01 2/4/02; RC3-02-P01 3/4/02; RC3-02-P02/04; RC3-02-P03; RC3-02-P04; RC3-02-P05; RC3-02-P06; RC3-02-P07; RC3-02-P08; RC3-02-P09; RC3-02-P10; RC3-02-P11; RC3-02-P13; RC3-02-P14; P22-1918\_EN\_OO3/C; 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; Design and Access Statement; Heritage Statement; Planning Statement; RC3-02-P12; Ecological Appraisal Report; Flood Risk Assessment and Outline Drainage Strategy; Glint and Glare Assessment; Noise Impact Assessment; Construction Traffic Management Plan; Statement of Community Involvement; Landscape and Visual Impact Assessment; Arboricultural Impact Assessment; Agricultural Land Classification Report;

The Council has given consideration to the application and plans as specified above, and hereby gives notice of its decision to **REFUSE PLANNING PERMISSION** for the following reasons: -

**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.

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- 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.

---

Date: 6 December 2023

Signed:

*Keith Holmes*

KEITH HOLMES

Planning Development Services Manager

**IMPORTANT - YOUR ATTENTION IS DRAWN TO THE NOTES ATTACHED**

## **NOTICE TO APPLICANT WHERE PERMISSION IS REFUSED**

### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions then you can appeal to the Secretary of State for the Department for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.
- For householder and minor commercial applications you must appeal within **12 weeks** of the Council's decision. For other application types you must appeal within six months of the Council's decision.
- **However if the development as described in your application is the same or substantially the same as development that is currently the subject of an enforcement notice then you must appeal within 28 days of the date of the service of this decision notice.**
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.  
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

### **Notification of Appeals**

- You must send a copy of your appeal to the local authority. In accordance with appeal procedures, when forwarding copies of appeal forms and additional information, plans or drawings direct to the local authority, please send electronic copies to [planning.appeals@chelmsford.gov.uk](mailto:planning.appeals@chelmsford.gov.uk) or address to the Director of Sustainable Communities, Chelmsford City Council, P.O. Box 7544, Civic Centre, Duke Street, Chelmsford, Essex, CM1 1XP.
- If you intend to submit an appeal that you would like examined by public inquiry you must notify the local authority as above and the Planning Inspectorate at [inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk) at least **10 days before** submitting the appeal.

### **Purchase Notices**

- If either the local planning authority or the Secretary of State for the Department for Communities and Local Government grant permission to develop land subject to conditions, the owner can claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI, Chapter I of the Town and Country Planning Act 1990.

### **Compensation**

- In certain circumstances compensation may be claimed from the Local Planning Authority if permission is granted subject to conditions by the Secretary of State on appeal or on reference of the application to them.
- These circumstances are set out in Section 114 and related to provisions of the Town and Country Planning Act 1990.



## **Appendix 3 – Joint CCC and RDC Decision Notice, issued 19<sup>th</sup> April 2024**



**And**

## **Rochford District Council**

(Under Section 101 Local Government Act 1972 and Section 9EA Local Government Act 2000 together with Regulation 5 of the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2012)

### **TOWN AND COUNTRY PLANNING ACT 1990**

**Agent:**

Mr Richard Moore  
Enso Energy  
Unit 1 & 2  
Cirencester Office Park  
Tetbury Road  
Cirencester  
GL7 6JJ

**Applicant:**

Enso Green Holdings J Limited  
C/o Agent

### **REFUSAL OF PLANNING PERMISSION**

<b>LOCATION:</b>	<b>Land South Of Southlands Cottages Runwell Road Runwell Wickford Essex</b>
<b>PROPOSAL:</b>	<b>Installation of a solar farm with battery storage and associated infrastructure</b>
<b>APPLICATION NO:</b>	<b>23/00532/FUL</b>
<b>DATE RECEIVED:</b>	<b>6 April 2023</b>
<b>DRAWING NO(s):</b>	<b>Southlands Solar Farm Flood Risk Assessment Addendum; Winter Bird Survey 2022-2023; Appeal Decision APP/W1525/W/22/3300222; Report to Inform a Habitats Regulation Assessment; RC3-02-P17 4/4; RC3-02-P17 3/4; RC3-02-P17 2/4; RC3-02-P17 1/4; P22-1918_EN_OO3/E; Outline Skylark Mitigation Strategy; Road Safety Audit Stage 1; Proposed Temporary Signage Locations for Construction Traffic; Designers Response to Stage 1 Road Safety Audit; RC3-02-P01 4/4/02; SK04; SK03; RC3-02-P01 1/4/02; RC3-02-P01 2/4/02; RC3-02-P01 3/4/02; RC3-02-P02/04; RC3-02-P03; RC3-02-P04; RC3-02-P05; RC3-02-P06; RC3-02-P07; RC3-02-P08; RC3-02-P09; RC3-02-P10; RC3-02-P11; RC3-02-P13; RC3-02-P14; P22-1918_EN_OO3/C; 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; Design and Access Statement; Heritage Statement; Planning Statement; RC3-02-P12; Ecological Appraisal Report; Flood Risk Assessment and Outline Drainage Strategy; Glint and Glare Assessment; Noise Impact Assessment; Construction Traffic Management Plan; Statement of Community Involvement; Landscape and Visual Impact Assessment; Arboricultural Impact Assessment; Agricultural Land Classification Report;</b>

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---

Date: 19 April 2024

Signed:

*Keith Holmes*

**KEITH HOLMES**

Planning Development Services Manager

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

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