

Planning Proof of Evidence.

Evidence of Paul Burrell.

In respect of Section 78 Appeal: Land South of Runwell Road (A132), Runwell, Wickford, Essex.

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

On behalf of Enso Green Holdings J Limited.

Date: October 2024 | Pegasus Ref: P23-2361

Appeal Refs: APP/M1525/W/24/3344509 & APP/B1550/W/24/3344510

LPA Refs: 23/00532/FUL (CCC); 23/00285/FUL (RDC)



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1. Personal Background

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

2. Introduction

- 2.1. My Planning Proof of Evidence has been prepared on behalf of 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 the Southlands Solar Farm and Battery Storage ("the Proposed Development"), on land south of Runwell Road (A132), Runwell, Wickford, in Essex ("the Appeal Site").
- 2.2. The Appeal Site straddles the boundary between Chelmsford City Council ("CCC") and the neighbouring Local Authority, Rochford District Council ("RDC").
- 2.3. 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.
- 2.4. RDC devolved their decision-making powers for the planning application to CCC under Section 101(1) of the Local Government Act 1972 (*Core Document 2.1*).
- 2.5. The appeal follows the refusal by CCC of the application for full planning permission (CCC ref: 23/OO532/FUL) for the following Proposed Development ("the Appeal Scheme"):

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

- 2.6. The Appeal Scheme consists of a ground mounted solar farm which would generate electricity for distribution to the National Grid; and a battery energy storage system (BESS) to provide grid balancing services to the Grid.
- 2.7. The proposed solar farm would be capable of generating 24.6MW (DC) of power which would produce enough renewable energy for the equivalent annual electrical needs of approximately 6,098 family homes in England. 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.
- 2.8. The proposed BESS facility is co-located with the proposed solar farm and 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.
- 2.9. All associated plant and equipment, together with associated development such as CCTV and perimeter fencing is included within the Appeal Scheme.
- 2.10. The Decision Notice was issued on 6th December 2023 (*Core Document 2.2*) 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:

Do not cause demonstrable harm to residential living environment; and

Avoid or minimise impacts on the historic environment; and

Can demonstrate no adverse effect on the natural environment including designated sites; and

Do not have an unacceptable visual impact which would be harmful to the character of the area; and

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:

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);

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:

Do not cause demonstrable harm to residential living environment; and

Avoid or minimise impacts on the historic environment; and

Can demonstrate no adverse effect on the natural environment including designated sites; and

Do not have an unacceptable visual impact which would be harmful to the character of the area; and

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."

- 2.11. The Decision Notice issued by CCC on 6th December 2023 did not refer to RDC or any Rochford Development Plan policies. Subsequently, on 19th April 2024 a second Decision Notice was issued (*Core Document 2.3*). The Decision Notice was issued on behalf of CCC and RDC who were both named on the Decision Notice; however, the refusal still only includes the CCC application reference. The 'joint' Decision Notice also made no reference to any Rochford Development Plan policies.
- 2.12. The Appellant and CCC both agreed at the CMC that the Rochford application should be dealt with on the basis that it has also been refused by the decision issued on 19th April 2024, and that is the basis upon which the appeal was made against that application.
- 2.13. My Planning Proof of Evidence addresses the Planning Policy matters raised in the Reasons for Refusal, as well as the overall planning balance.
- 2.14. Topic based Statements of Common Ground (SoCG) have been agreed with the LPA – Overarching; Need; Flood Risk; Heritage (*Core Documents 9.4 to 9.8*) – and I therefore rely on the agreement to matters which are not currently disputed between the parties.

3. The Appeal Site and its Surroundings

- 3.1. An agreed description of the Appeal Site and its surroundings is set out in the Overarching Statement of Common Ground with the LPA (*Core Document 9.4, Section 2*).

4. The Appeal Proposals

- 4.1. A detailed description of the Appeal Scheme and confirmation of the plans and documents on which the LPA's decision was made are contained in the Overarching SoCG with the LPA (*Core Document 9.4, Sections 3 and 4*).

5. Planning History

- 5.1. An agreed description of the Planning History relevant to the Appeal Site is set out in the Overarching SoCG with the LPA (*Core Document 9.4, Section 6*).

6. Planning Policy Framework

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

The Development Plan

6.2. As agreed in the Overarching SoCG with the LPA, the statutory Development Plan comprises of the following (*Core Document 9.4, Section 7*).

6.3. Where the Appeal Site is located within the jurisdiction of CCC, the CCC Development Plan comprises:

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

6.4. In respect of that part of the Appeal Site comprising 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 RDC Development Plan comprises:

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

6.5. There are no “made” Neighbourhood Plans applicable to the Proposed Development within either CCC or RDC.

6.6. The position with regard to the emerging Development Plans for both CCC and RDC is set out in the Overarching SoCG agreed with the LPA (*Core Document 9.4, paragraphs 7.13 to 7.16*).

Chelmsford Local Plan 2013–2036 (adopted May 2020)

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

- Policy DM6 – New Buildings in the Green Belt
- Policy DM10 – Change of Use (Land & Buildings) & Engineering Operations
- Policy DM19 – Renewable & Low Carbon Energy

6.8. In addition, I note that relevant policies for determining this appeal as set out in the Overarching SoCG with the LPA (*Core Document 9.4, paragraph 7.7*) also include:

- 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 DM16: Ecology and biodiversity
- 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

- 6.9. The Decision Notices reference no policies in any of the RDC Development Plan documents.
- 6.10. Notwithstanding, policies of relevance from the RDC Development Plan documents for determining this appeal include:

- **Rochford District Core Strategy (adopted December 2011):**

Policies GB1 (Green Belt Protection) and 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), and Policy DM31 (Traffic Management).

National Policy and Guidance

- 6.11. I refer specifically to the following material considerations in my evidence subsequently:
- National Planning Policy Framework (NPPF) (*Core Document 4.1A*) and the consultation version of the NPPF which was published in July 2024 (*Core Document CD 4.1B*);
 - National Planning Practice Guidance (NPPG) (*Core Document 4.2*);
 - Overarching National Policy Statement for Energy (EN-1), November 2023 (*Core Document 4.3*);
 - National Policy Statement for Renewable Energy Infrastructure (EN-3), November 2023 (*Core Document 4.4*);

- Climate Change Act 2008 (*Core Document 4.8*);
- Climate Change Act (2050 target amendment) Order 2019 (*Core Document 4.9*);
- UK Parliament declaration of an Environmental and Climate Change Emergency in May 2019 (*Core Document 4.11*);
- Energy White Paper: Powering our Net Zero Future published in December 2020 (*Core Document 4.12*);
- 'Achieving Net Zero' published by the National Audit Office in December 2020 (*Core Document 4.16*);
- Net Zero Strategy: Build Back Greener, dated October 2021 (*Core Document 4.17*);
- British Energy Security Strategy, dated 7 April 2022 (*Core Document 4.18*);
- 'Powering up Britain' suite of documentation, dated March 2023 (*Core Document 4.20*);
- The latest version of the 'Digest' of United Kingdom Energy Statistics, July 2024 (*Core Document 4.14B*)

Supplementary Planning Guidance

- 6.12. I note the following document and will refer to the weight to be attached to it later in my Evidence:
- Chelmsford Solar Farm Development SPD (adopted in November 2021) (*Core Document 5.5*).

7. Case for the Appellant

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

Reason for Refusal

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

Main Issues

- 7.3. The Inspector in the CMC Notes states that the Council and Appellant have agreed that the development would be inappropriate development in the Green Belt. Accordingly, the Inspector determined that the main issues will be:

Issue 1 – Impact of the development on the openness and purposes of the Green Belt.

Green Belt policy – Framework considerations

- 7.4. I acknowledge that the Appeal Site is located within the metropolitan Green Belt, and that the Appeal Scheme is not a form of development that the NPPF defines in paragraphs 149 and 150 that would not be inappropriate development in the Green Belt.
- 7.5. I also acknowledge that, in accordance with paragraphs 147 and 148 of the NPPF, inappropriate development is by definition harmful to the Green Belt and that any harm to the Green Belt should carry substantial weight in determining a planning application.
- 7.6. I note that, in applying NPPF paragraph 148 and Chelmsford Local Plan **Policy DM6**, the Appeal Scheme should not be approved unless the potential harm to the Green Belt by reason of inappropriateness, and other harm resulting from the proposal, is clearly outweighed by other considerations. I further note that paragraph 151 states that elements of many renewable energy projects will comprise inappropriate development and that in such circumstances, developers will need to demonstrate very special circumstances if projects are to proceed. It then specifically states that *"such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources"*. I consider that to be the case in respect of the Appeal Scheme, and I return to address this matter later in my Evidence when considering the advice set out in NPS EN-1 and EN-3 on Critical National Priority Infrastructure and its relation to very special circumstances in Section 8 of my Evidence, and also in considering the very special circumstances in Section 11 of my Evidence.
- 7.7. In this section of my Evidence, I now turn to consider the effect of the Appeal Scheme on the openness of, and purposes of including land within, the Green Belt.

Effect on the openness of the Green Belt

- 7.8. I note that the NPPG advises that in assessing the impact of a proposal on the openness of the Green Belt, the circumstances of each case require a judgement, and there are 3 specific matters identified in the NPPG which may need to be taken into account (agreed in the Overarching SoCG, paragraph 8.18).
- 7.9. In reaching my conclusions of these matters, I rely on Mr Cook's evidence of the potential impact of the Appeal Scheme on the openness of the Green Belt.
- 7.10. The first consideration is that openness is capable of having both spatial and visual aspects.
- 7.11. Having regard to the spatial aspect of openness, I consider that the solar panels, BESS and associated infrastructure has a relatively modest mass and footprint resulting the solar arrays, and the perception of the volume of the scheme is further reduced by their spacing. Nevertheless, I acknowledge that the Appeal Scheme would diminish the openness of the Green Belt spatially, a conclusion that I note was also reached by the Inspector in the *Chelmsford* decision (*Core Document 6.12, paragraphs 13, 14*) and Fobbing (*Core Document 6.30, paragraph 18*).
- 7.12. With regard to the visual aspect of openness, I note and agree with Mr Cook's analysis that the Appeal Site benefits from a high degree of visual containment in terms of views from the countryside to the north, south, east and west due to topography, mature tree cover, woodlands, tree belts and hedgerows in the intervening landscape.
- 7.13. The second consideration identified by the NPPG concerns the duration of the Proposed Development and its remediability. The Appeal Scheme will be in place for a temporary period of 40 years of operation, after which it will be fully decommissioned, and land returned to its former undeveloped use. I consider therefore that the Proposed Development is not a permanent form of development and as such will not have a permanent effect of the openness of the Green Belt, which would be the case for many other forms of built development. Again, I note the Inspector took this temporary 40 year period consideration into account in weighing the harm to the openness of the Green Belt in the *Chelmsford* decision (*Core Document 6.12, paragraph 15*). This is also recognised in NPS EN-3 where the time limit is likely to be an "important consideration" for the Secretary of State (as referred to in the Need SoCG, paragraph 2.20).
- 7.14. The third consideration identified by the NPPG concerns the degree of activity likely to be generated, such as traffic generation. Once the construction period is completed after an approximately 6 month duration, there will be only infrequent maintenance visits to the Appeal Scheme which will be low intensity and low volume. I therefore consider that the harm to the openness of the Green Belt by reason of degree of activity would be very limited once the Appeal Scheme is operational.

The 5 Purposes of the Green Belt

- 7.15. Paragraph 138 of the NPPF identifies five purposes of the Green Belt, and I will consider whether there is any harm in respect of each of these five purposes.
- 7.16. In respect of purpose (a), which is to check the unrestricted sprawl of large built up areas, I consider that the Appeal Site lies outside of any large built up area, and would not result in

the sprawling of an existing built up area. It is agreed in the Overarching SoCG at paragraph 8.20 that the Proposed Development does not conflict with this purpose.

- 7.17. In respect of purpose (b), which is to prevent neighbouring towns from merging into one another, the Appeal Scheme does not adjoin any of the neighbouring towns. I consider that it will not result in the merging of these settlements given that significant open land will remain on all four sides of the Appeal Site. It is agreed in the Overarching SoCG at paragraph 8.20 that the Proposed Development does not conflict with this purpose.
- 7.18. In the *Harlow Road* decision, the Inspector considered a solar farm development in terms of purposes (a) and (b). He found that a solar farm has a completely different character to existing 'built-up' areas and also acknowledged substantial landscaping greenery as part of its overall composition. In the absence of any shared characteristics to nearby built-up areas, the solar farm would be read and experienced in the local landscape as being entirely distinct from the urbanised and built-up qualities of nearby settlements. The Inspector went on to conclude that whilst solar panels and associated development are no doubt built features, recognition of that point does not suggest that it would result in urban sprawl of an existing built-up area (*Core Document 6.32, paragraphs 22 to 24*).
- 7.19. In respect of purpose (c), which is to assist in safeguarding the countryside from encroachment, I rely on Mr Cook's evidence where he accepts there would be some limited harm in this regard. I note too the Inspector's consideration of this matter at *Chelmsford* where he concluded that there the solar farm would alter the appearance of the fields to accommodating solar equipment interspersed with retained field boundaries, the effect of which would result in encroachment (*Core Document 6.12, paragraph 16*).
- 7.20. In respect of purpose (d), to preserve the setting and special character of historic towns, I consider that the Appeal Scheme does not offend either the setting or special character of a 'historic town' and therefore complies with this requirement. It is agreed in the Overarching SoCG at paragraph 8.20 that the Proposed Development does not conflict with this purpose.
- 7.21. In respect of purpose (e), which is to assist in urban regeneration, by encouraging the recycling of derelict and other urban land, due to the large scale and specific grid connection requirements of the Appeal Scheme, there are no derelict or other urban land sites available and therefore I consider that there is no conflict with this objective. I am mindful that in *Chelmsford*, the Inspector found no conflict to purpose (e) from a 49.9MW solar farm being sited in the Green Belt rather than being deflected towards previously developed land. The Inspector accepted that it would not be cost effective to locate a solar farm use on PDL due to land values and rates of return (*Core Document 6.12, paragraph 17*). It is agreed in the Overarching SoCG at paragraph 8.20 that the Proposed Development does not conflict with this purpose.
- 7.22. In conclusion on these 5 purposes of Green Belt, I consider that the Appeal Scheme would result in limited harm to one of these five purposes (purpose (c), safeguarding countryside from encroachment), but that the strategic performance and function of the remaining Green Belt would remain intact.
- 7.23. Overall, I conclude that the development would be inappropriate development in the Green Belt, and would by definition therefore result in harm to the Green Belt. As to the nature and extent of this harm, I consider the Appeal Scheme would result in moderate harm to the Green Belt in both spatial and visual terms, and that it would further result in some

encroachment, which is in contradiction to one of the five purposes of the Green Belt. In respect of the other four purposes, I do not consider there to be harm in this instance.

- 7.24. All harm to the Green Belt should be afforded substantial weight in the planning balance, but I consider that a lower level of harm, as would occur here, is likely to be more easily outweighed by the benefits of the scheme¹.
- 7.25. I return in Section 11 to consider this harm to the openness of the Green Belt, together with any other harm, and whether this harm is clearly outweighed by other considerations.

Issue 2 – Its impact on the landscape character and visual amenity of the area, including cumulatively with other permitted developments.

- 7.26. This matter is addressed in Mr Cook's evidence, and I agree with his conclusion that whilst there would be some limited adverse effects on landscape character and visual amenity, these would be localised.
- 7.27. Mr Cook considers that 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.
- 7.28. On the effect of the Proposed Development on landscape character, Mr Cook considers that there would be a moderate adverse effect upon the landscape character of the Appeal Site itself and its immediate environs. No off-site works are required to enable this scheme to be implemented other than the cable connection. The physical character of the surrounding landscape would remain and prevail unchanged with the proposed solar farm in place.
- 7.29. I return in Section 11 to consider the harm to landscape character and visual amenity, together with any other harm, and whether this harm is clearly outweighed by other considerations.

Issue 3 – Whether any harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to provide the necessary very special circumstances.

- 7.30. I return to consider this issue at Section 11 of my Evidence.

¹ Whilst substantial weight to be applied to any harm to the Green Belt, a lower level of harm (for example, moderate) would be more easily outweighed by benefits than were the harm to be at a higher level (for example, significant)

8. Planning Policy Assessment

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

Chelmsford Local Plan 2013–2036 (adopted May 2020)

- 8.2. I specifically consider the most relevant policies to the determination of this appeal, in respect of **Policy DM19** on Renewable and Low Carbon Generation, **Policy DM6** regarding New Buildings in the Green Belt, and **Policy DM10** Infilling in the Green Belt, Green Edge and Rural Area. I have reviewed compliance with the other Core Strategy policies at **Appendix 1** to my Evidence.

Policy DM19 – Renewable and Low Carbon Generation

- 8.3. **Policy DM19** sets out a permissive policy framework for the reasons explained at paragraph 8.113, where it is stated that the Council will encourage the provision of renewable and low carbon energy schemes and will balance the immediate impact of renewable and low carbon energy proposals on the amenities of the local environment with their wider contribution to reducing the emission of greenhouse gases.
- 8.4. **Policy DM19** states that permission will be granted for renewable or low carbon energy development, provided 5 criteria are met.
- 8.5. The first criterion is that the development does not cause demonstrable harm to residential living environment. That is not the case in respect of the Proposed Development and the Council do not allege this to be the case.
- 8.6. The second criterion is that the development should avoid or minimise impacts on the historic environment. As noted in Section 2 of the Heritage SoCG (*Core Document 9.8*), whilst there is some less than substantial harm to the significance of the Grade I Listed Church of All Saints, this must be weighed against the public benefits of the Proposed Development in accordance with the NPPF paragraph 208; and in respect of non-designated heritage assets (WWI pillboxes and the Toby Carvery), a balanced judgement needs to be applied in accordance with the NPPF paragraph 209. I note that the Council agree in the Heritage SoCG that the NPPF Paragraph 208 and 209 tests are both met.
- 8.7. The third criterion concerns the demonstration of no adverse effect on the natural environment including designated sites. This is the case in respect of the Proposed Development, and it is further the case that due to levels of BNG which will be delivered, that there are positive effects on the natural environment.
- 8.8. The fourth criterion states that the development should not have an unacceptable visual impact which would be harmful to the character of the area. I specifically note that the policy in these terms does not require no visual impact, but that any such visual impact should not be unacceptable. This wording indicates that there will be a degree of visual impact on the character of the area which would be acceptable. Having given consideration to the evidence of Mr Cook, I consider that the Proposed Development would not be significantly harmful to the character of the area.

- 8.9. The fifth criterion states that the development will not have a detrimental impact on highway safety. The proposed means of access is suitable to serve the Proposed Development, as evidenced by the Local Highway Authority raising no objection to the Proposed Development on highway grounds. This is agreed in the Overarching SoCG at paragraph 8.34.
- 8.10. Finally, Policy DM19 states that where located in the Green Belt, renewable and low carbon energy developments will also need to demonstrate very special circumstances in order to be approved. As I have previously stated, I do consider that very special circumstances can be demonstrated in respect of the Proposed Development, which I turn to in Section 11 of my Evidence.
- 8.11. I therefore consider that **Policy DM19** is satisfied, and support is derived for the Proposed Development by virtue of the generation of renewable energy.

Policy DM6 – New Buildings in the Green Belt.

- 8.12. **Policy DM6** reflects national planning policy, in that inappropriate development (certain specified types of buildings can constitute appropriate development in the Green Belt) will not be approved except in very special circumstances. It has already been agreed by all parties that the Proposed Development comprises inappropriate development in a Green Belt sense, and therefore that very special circumstances will need to be demonstrated for the Appeal to be allowed.
- 8.13. For the reasons I explain at Section 11 of my Evidence, I do consider that very special circumstances are demonstrated in respect of this Proposed Development.

Policy DM10 – Change of Use (Land & Buildings) and Engineering Operations

- 8.14. **Policy DM10** sets out that the Council will grant planning permission for the change of use of a building in the Green Belt where certain specified criteria are met. This is not relevant to the Proposed Development given the absence of existing buildings on the Appeal Site.
- 8.15. The most relevant part of **Policy DM10** relates to engineering operations, which states that works will be permitted in the Green Belt where they preserve openness, do not conflict with the purposes of including land in the Green Belt, and do not harm the character and appearance of the area. I have already stated in my Evidence that I consider that the Proposed Development would harm Purpose (c) of the Green Belt, albeit to a limited extent.
- 8.16. I note that, whereas for **Policy DM6**, there is an express allowance for the application of the very special circumstances test as per the Framework, so there is no such express mention of the very special circumstances test embedded within **Policy DM10** to the extent that the **Policy DM10** departs from the Framework in this regard by failing to incorporate such a requirement to allow for very special circumstances to be considered, I consider that the weight to be afforded to this policy should be significantly reduced if reliance is to be placed on **Policy DM6** in respect of determining this Appeal.
- 8.17. Again, for the reasons I explain at Section 11 of my Evidence, I do consider that very special circumstances are demonstrated in respect of this Proposed Development and that test should be applied in respect of interpreting the weight to be given to **Policy DM10**.

Emerging Chelmsford Local Plan

- 8.18. Given the emerging Local Plan is at an early stage of preparation, having had consultation on its Preferred Options stage finishing in June 2024. The Overarching SoCG agrees that limited weight should be attached to this emerging Local Plan.

Emerging Rochford Local Plan

- 8.19. Given the emerging Local Plan is at an early stage of preparation, having had consultation on its Spatial Options stage finishing in September 2021 and a further consultation on its Preferred Options stage scheduled for Autumn 2024. The Overarching SoCG agrees that limited weight should be attached to this emerging Local Plan.

Supplementary Planning Documents

Chelmsford Solar Farm Development SPD

- 8.20. I note that this SPD was adopted in November 2021 and since its adoption, national energy policy has continued to strengthen in favour of the deployment of solar pv and BESS schemes. Whilst I set these changes out in more detail in Section 9 of my Evidence, in summary this changing context includes the subsequent publication of the Net Zero Strategy in Autumn 2021, the British Energy Security Strategy in 2022, the Powering up Britain Suite of documentation in 2023, and the designation of National Policy Statements EN-1 and EN-3 in 2024, which together established the need to deliver a five-fold increase in solar pv by 2035, the need for an accelerated growth of renewables to be at an unprecedented scale and pace, and that solar pv is now a newly defined type of 'Critical National Priority' Infrastructure. Whilst I accept the SPD remains a material consideration in the determination of this appeal, I consider that the weight to be attached to this SPD should be reduced.

Development Plan Policy Conclusions

- 8.21. Having regard to the above considerations, and to my analysis of the benefits of the Appeal Scheme which I consider amount to very special circumstances (I examine this matter in detail in Section 11 of my Evidence), it is my opinion that the Appeal Scheme complies with the Development Plan policies cited by the LPA in their Reason for Refusal. Even if there were to be a conflict with part of a policy, or even one policy in the Development Plan, this conflict would not automatically lead to the conclusion that there is conflict with the development plan taken as a whole having regard to the principles set out in *R. (on the application of William Corbett) v The Cornwall Council* [2020] EWCA Civ 508 (Core Document 6.8).
- 8.22. I therefore consider the Proposed Development is in accordance with the Development Plan when read as a whole.

9. Other Material Considerations

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

Energy Policy Considerations

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

UK Legislation and Policy

- 9.4. The ‘**Climate Change Act 2008**’ (*Core Document 4.8*) brought in the legislative basis for the United Kingdom (“UK”) to reduce net greenhouse gas emissions by at least 80% by 2050 from their 1990 levels.
- 9.5. The target included in the ‘Climate Change Act 2008’ was strengthened in June 2019 to be a 100% reduction relative to 1990 levels by 2050 (known as “net zero”) (*Core Document 4.9*).
- 9.6. The ‘**Clean Growth Strategy**’ (*Core Document 4.10*) was published by the Department for Business, Energy and Industrial Strategy (“BEIS”) in October 2017. In respect of the power sector, the Strategy anticipates that by 2050 emissions from this sector need to be close to zero. In the meantime, the Strategy indicates one possible pathway to the interim step of 2032 is for power emissions to fall by 80% compared to 2017 levels which could be achieved by, inter alia, growing low carbon sources such as renewables and nuclear to over 80% of electricity generation, and phasing out unabated coal power. The Strategy also confirms that the “Government want to see more people investing in solar without government support”. Attention is drawn in particular to pages 95 – 96 of the Strategy.
- 9.7. The clear and explicit need to introduce a step change in how the UK reacts to Climate Change has been recognised by UK Parliament who, on 1st May 2019, declared an Environmental and Climate Change Emergency (*Core Document 4.11*).
- 9.8. At the local level, Chelmsford City Council, Rochford District Council and Essex County Council have all recognised the importance of achieving Net Zero (for example, see *Core Documents 5.7, 5.8, 5.9 and 5.10*).

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

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

- 9.10. And later in the foreword:

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

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

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

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

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

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

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

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

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

- 9.17. To meet this challenge, the Government states that a low-cost, net zero consistent electricity system is most likely to be composed predominantly of wind and solar generation, whether in 2035 or 2050 (*Core Document 4.17, paragraph 11, page 98*). It affirms that we need to continue to drive rapid deployment of renewables so we can reach substantially greater capacity beyond 2030 (*Core Document 4.17, paragraph 35, page 103*). The Government further indicates that a sustained increase in the deployment of land-based renewables (and specifically identifying solar) will be required in the 2020s and beyond (*Core Document 4.17, paragraph 36, page 103*).
- 9.18. Given the size of the challenge, the Government states ‘*we will need to consider how low carbon energy infrastructure can be deployed at an unprecedented scale and pace sympathetically alongside the interests of our communities and consistent with our obligations to a sustainable environment, both land-based and marine.*’ (*Core Document 4.17, paragraph 32, page 102*). It is my opinion that, if consented, the Proposed Development will contribute to the deployment of low carbon energy infrastructure in the immediate future and therefore contributing to the scale and pace of deployment that is needed, whilst also being sympathetic to both the interests of the community and the sustainability of the environment in this location.
- 9.19. The Government also sets out that “*although we need to ensure we can deploy existing low carbon generation technologies at close to their maximum to reach Carbon Budget 6, we also need to de-risk the delivery challenge*” (*Core Document 4.17, paragraph 43, page 105*). One of the solutions proposed is to maximise storage flexibility through storage technologies. I note that the Proposed Development includes battery storage as an integral component of the scheme which will complement that Government’s net zero strategy. In my opinion it is clear that there is a pressing need for the deployment of BESS facilities to support the deployment of renewable energy technologies to be a key part of the UK’s transition to achieving a low-carbon economy. The BESS facility would include a number of benefits for the National Grid, including ‘load-shifting’ and smoothing out the generation of electricity to meet demand, and aiding the security of supply and reducing the risk of black-outs and brown-outs.
- 9.20. In response to the rising cost of energy and the crisis associated with the commencement of the Ukraine war, the Government updated its **British Energy Security Strategy** in April 2022 (*Core Document 4.18*). When discussing solar technology, the Strategy notes that the government expects a five-fold increase from the current 14GW of solar capacity in the UK by 2035. Specifically in respect of ground-mounted solar, the Strategy explains that consultation on amending planning rules will take place to strengthen policy in favour of development of non-protected land, while ensuring communities continue to have a say and environmental protections remain in place.
- 9.21. The Government also states that it will support solar that is co-located with other elements, and I particularly note that this reference specifically includes storage, so as to maximise the efficiency of land use, as is proposed in this scheme (*Core Document 4.18, page 19*).
- 9.22. In addition, the ESS demonstrates the parallel need for improved grid flexibility and energy storage capacity. Under the heading ‘Networks, storage and flexibility’ it is made clear that electricity storage facilities are to be encouraged by “*encouraging all forms of flexibility with*

sufficient large-scale, long-duration electricity storage to balance the overall system by developing appropriate policy to enable investment.” (Page 25). Again, this statement from the Government underscores the importance of delivering electricity storage facilities (such as the BESS) as part of the decarbonisation of our electricity system.

9.23. Most recently still, the Government published a suite of documentation under the **Powering Up Britain** in March 2023. This included updated draft NPS on Energy and Renewable Energy to which I refer below, but also an **Energy Security Plan** (“the ESP”) (Core Document 4.20). I note that the Government states that *‘Low cost renewable generation will be the foundation of the electricity system and will play a key role in delivering amongst the cheapest wholesale electricity in Europe’* (page 34).

9.24. The ESP continues to examine the role of solar at pages 37/38, and it reaffirms the Government’s commitment to aim for 70GW of ground and rooftop capacity by 2035. It again states that this amounts to a fivefold increase on current installed capacity. The ESP then concludes on this matter:

‘We need to maximise deployment of both types of solar to achieve our overall target’.

9.25. I attach considerable importance to this clear statement, in that the Government is clear that the deployment of ground mounted solar (as well as roof mounted solar) needs to be maximised if the fivefold increase in solar pv deployment is to be met.

9.26. After considering ways that rooftop solar can be encouraged, the ESP turns to ground mounted solar, which is noted as being readily deployable at scale (as is the case with the Proposed Development). It continues to say that the Government ‘seeks’ large scale solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land (the latter category being the case with over 73% of the Appeal Site being of Grade 3b classification). I consider that the Proposed Development would assist in achieving what the Government seeks in the ESP.

9.27. The ESP also states that the *“Government will enable the acceleration of low-carbon flexible technologies and services deployment through...facilitating the deployment of electricity storage”* (Page 40).

9.28. The ESP again restates that the Government considers that meeting energy security and climate changes goals is *‘urgent’* and *‘of critical importance to the country’*, and further that *‘these goals ‘can be achieved together with maintaining food security for the UK’.*

9.29. The ESP further encourages deployment of solar technology that deliver environmental benefits, with consideration for ongoing food production or environmental management. For reasons that I elaborate on in Section 11 of my Evidence, I conclude that the Proposed Development would assist in delivering both food production through sheep farming, and environmental benefits through delivering a significant increase in Biodiversity Net Gain.

9.30. I agree with the conclusion reached in the ESP that that *‘the Government considers that there is a strong need for increased solar deployment.’* I also note the ESP’s comment that the planning system allows all views to be taken into account when decision makers balance local impacts with national need. In the case of this Proposed Development, I consider that the limited extent of local impacts identified are outweighed by this ‘strong’ national need for solar development, for the reasons I explain in Section 11 of my Evidence.

- 9.31. In November 2023, the Government published a **Connections Action Plan** (*Core Document 4.21, page 9*) which acknowledged the serious problems of grid connection delays for renewable bergy projects:

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

- 9.32. One of the final actions of the previous Government in May 2024 was to issue a Written Statement by the Secretary of State for Energy Security and Net Zero on 'Solar and Protecting our Food Security and Best and Most Versatile (BMV) Land' (*Core Document 4.22*). The Written Statement states that 'due weight' needs to be given to the proposed use of BMV land when considering whether planning consent should be granted for solar development. In this regard I consider that it does not amend national planning policy, nor the weight to be afforded to this material consideration. Again, I note that the substantial majority of the Appeal Site is not located on BMV land.

Progress

- 9.33. The 'Digest of United Kingdom Energy Statistics' is an accurate source of energy information providing figures on the UK's overall energy performance, production and consumption. The Digest is published annually with the latest publication being the July 2024 Digest (*Core Document 4.14B*).
- 9.34. In the key headlines to the 'Renewable Sources of Energy' chapter (*Core Document 4.14B, Chapter 6*), I note that renewable capacity increased by 4.0 per cent, which is half that evidenced in the previous year in 2022 (*Core Document 4.14A, Chapter 6*). This rate of increase also remains significantly lower than the average annual growth rate between 2012 and 2018 which was 20 per cent. De-rated renewable energy capacity is stated to have increased by 10.8% to 2.8GW in 2023, whilst amount of new solar pv capacity installed increased by 1.3GW (*Core Document 4.14B, Chapter 6 key headlines*).
- 9.35. This additional 1.3GW of installed solar PV in 2023 comprises an annual figure which is far below that which is required to achieve the 5-fold increase to 70GW by 2035 as stated in the British Energy Security Strategy (2022) and repeated in the Energy Security Plan (2023). I estimate that the deployment per annum needed to meet the 70GW target (which requires an increase of 56GW over 13 years) would be 4.3GW pa on a straight-line trajectory². The 0.7 GW achieved in 2022, added to the 1.3GW achieved in 2023, totals 2.0GW of additional solar PV over these first 2 years. This weak growth has resulted in only meeting 23% of the equivalent annual target over these 2 years, and serves to further underline the need for a substantial and rapid deployment of new solar pv capacity.

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

- 9.36. I also draw attention to two other concerning matters having regard to the wider context of improving security of electricity generation for the UK. The first concern is that total de-rated generation capacity in the UK overall fell by 2.6% in 2023 compared to 2022 to stand at 74.8GW (*Core Document 4.14B, Chapter 5, page 7*). This reflects the closure of two large coal-fired plants and this reduction in generation capacity was not kept pace by increases in capacity in other low-carbon forms of electricity generation. The second is that the UK returned to being a net electricity importer in 2023, with net imports totalling a record 23.8 TWh, and that the UK's total imports were more than double 2022 levels (*Core Document 4.14B, Chapter 5, page 6*).
- 9.37. The National Audit Office cast doubt on the progress being made and the achievement of the pre-"net zero" (80%) reduction compared to 1990 levels in their December 2020 'Achieving net zero' report (*Core Document 4.16*). As I have already noted earlier, in the summary at page 6, when discussing the scale of the challenge, the NAO noted that achieving net zero is a 'colossal challenge' and is significantly more challenging than the Government's previous target to reduce carbon emissions by 80% by 2050.
- 9.38. The report recognised the progress of the energy sector, but confirms this sector's importance in achieving legislative targets:

"Reducing emissions further to achieve net zero will require wide-ranging changes to the UK economy, including further investment in renewable electricity generation, as well as changing the way people travel, how land is used and how buildings are heated."

Summary

- 9.39. The above matters emphasise the immediate and pressing need for deployment of both renewable energy generation and energy storage infrastructure in the UK, to assist with meeting the challenging legally binding obligations to reach "net zero" by 2050. It is clear that the continued deployment of Solar PV and BESS facilities, and low carbon technologies more generally, are and have been consistently recognised by the Government as a key part of the UK's transition to achieving a low carbon economy and tackling Climate Change.
- 9.40. Having regard to the above, the application proposals make an appreciable contribution to meeting the amended Climate Change 2008 targets. It is clear that in order for the UK to meet the ambitious target of reducing greenhouse gas emissions by 100% or "net zero" compared to 1990 levels by 2050, a presumption in favour of increasing the number and output of low carbon energy sources, such as solar farms, is entirely appropriate and necessary.
- 9.41. The UK's 'Climate emergency' declaration and Chelmsford City Council's, Rochford District Council's and Essex County Council's acknowledgement of the need to deliver on Net Zero targets provide further context for this Appeal (*Core Documents 4.11, 5.7 and 5.9*). The Proposed Development would support the intentions of these declarations.
- 9.42. The application of the Government's energy policy framework is a highly significant material consideration to this Appeal and is further considered in the balance of material considerations at Section 11 of my Evidence.

National Policy Statements on Energy & Renewable Energy

National Planning Policy Framework ("NPPF")

- 9.43. I have already referred to the NPPF earlier in my Evidence. However, I wish to draw attention to the following key paragraphs in relation to the determination of this appeal.
- 9.44. First, paragraph 152 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate and take full account of flood risk. It also states *inter alia* that renewable and low carbon energy and associated infrastructure should be supported.
- 9.45. Second, paragraph 158 explains that applicants are not required to demonstrate the overall need for renewable or low carbon energy and recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. I am of the opinion that this Proposed Development would make a significant contribution to cutting greenhouse gas emissions.
- 9.46. Paragraph 158 further requires that Local Planning Authorities should approve the application if its impacts are (or can be made) acceptable. For the reasons I elaborate in Section 11 of my Evidence, I am of the opinion that the impacts arising from the Proposed Development are acceptable with the imposition of suitable planning conditions. The only remaining impacts once the scheme is decommissioned will be overwhelmingly positive.
- 9.47. Further advice is set out in the NPPF regarding conserving and enhancing the natural environment and the heritage environment which I also refer to in reaching an overall planning balance in Section 11.
- 9.48. On 30th July 2024, the new Government published an updated NPPF for consultation (*Core Document 4.1B*). Whilst I acknowledge that the revisions set out have been published for the purposes of consultation, given that they follow through on previous Manifesto commitments given in the General Election, I afford them significant weight as evidencing the new Government's direction of travel with regard to planning and energy policy.
- 9.49. The first significant change proposed is to support all forms of renewable and low carbon development. In amendments to paragraph 164, the NPPF is proposed to be unequivocal that '*Local authorities should support planning applications for all forms of renewable and low carbon development.*' It is noteworthy that there are no counterbalancing caveats set out in this very clear statement of policy (although a caveat to my consideration of this matter is set out at paragraph 9.52 below). The proposed change to paragraph 164 has also removed current paragraph 163 (b) which *inter alia* says that the application should be approved '*if its impacts are (or can be) made acceptable.*' The omission of this requirement is an important amendment in establishing a clearer 'presumption' in favour of granting permission for renewable energy schemes. That approach is, in my opinion, entirely consistent with the stated aim behind the changes of increasing the likelihood of planning permission being granted by the decision-taker.
- 9.50. The second significant change is the weight to be attached to the renewable energy generation and a net zero future. Paragraph 164 is now proposed to be very clear that when determining planning application, the decision taker should '*... give significant weight to the proposals contribution to renewable energy generation and a low carbon future.*'

- 9.51. Having regard to the Government's intentions behind strengthening the support for supporting renewable energy deployment, the accompanying Consultation Paper on the NPPF published at the same time as the consultation opened on 30th July is informative (*Core Document 4.1C*). Chapter 9 of the document is titled 'Supporting green energy and the environment', and paragraphs 7 to 9 set out the Government's intention to strengthen the NPPF in this regard. I particularly note that the Government states that is proposing to '*direct decision makers to give significant weight to the benefits associated with renewable and low carbon energy...*' and that the reason for this is '*In doing so, this aims to increase the likelihood of local planning authorities granting permission to renewable energy schemes and contribute to reaching zero carbon electricity generation by 2030.*' I consider that the Appeal Scheme would deliver against that 2030 target and therefore should benefit from the Government's policy shift to increase the likelihood of being granted planning permission.
- 9.52. I also note that at paragraph 9 of the above Consultation document, the Government notes that development of renewables may be proposed in sensitive areas, and then draws specific attention to carbon sequestration and peatlands in particular. It then continues to reinforce that '*While these changes seek to promote the delivery of renewable energy schemes, proposals should still be subject to the policy requirements set out in the framework alongside other environmental safeguards*'. For the reasons I have elaborated on throughout my Evidence, I do not consider that the policy requirements set out in the NPPF, or other environmental safeguards, are offended by the Proposed Development and therefore this proposed new "presumption in favour of the delivery energy schemes" should fully apply to this Appeal Scheme.

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

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

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

- 9.57. EN-1 (*Core Document 4.3*) was revised and presented to the Houses of Parliament in November 2023 to set out national policy for energy infrastructure in the UK. Its primary purpose is to be applied to decisions for Nationally Significant Infrastructure Projects, which

the Proposed Development the subject of this Appeal is not, although it is of a scale which is approaching the NSIP threshold. It is also confirmed this document can be a material consideration in the determination of planning applications (*Core Document 4.3, paragraph 1.2.1*), and the extent to which the policies in the NPS are material, and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy (*Core Document 4.3, paragraph 1.2.2*).

9.58. I note that the NPS re-iterates a number of matters already referred to in my Evidence earlier in this Section, including:

- *'we need to dramatically increase the volume of energy supplied from low carbon sources'* (*Core Document 4.3, paragraph 2.3.5*).
- demand for electricity is likely to increase and could more than double by 2050 as large parts of transport, heating and industry decarbonise by switching from fossil fuels to low carbon electricity (*Core Document 4.3, paragraph 2.3.7, 3.3.3*).
- *'we will need a fourfold increase in low carbon generation....In addition, we committed in the Net Zero Strategy to take action so that by 2035, all our electricity will come from low carbon sources, subject to security of supply, whilst meeting a 40-60% increase in electricity. This means that the majority of new generating capacity needs to be low carbon'*. (*Core Document 4.3, paragraph 3.3.16*).
- *'Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply (as they are not reliant on fuel for generation). Our analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar'* (*Core Document 4.3, paragraph 3.3.20*).
- *'storage has a key role to play in achieving net zero and providing flexibility to the energy system, so that high volumes of low carbon power, heat and transport can be integrated.'* (*Core Document 4.3, paragraph 3.3.25*).
- *'Storage is needed to reduce the costs of the electricity system and increase reliability by storing surplus electricity in times of low demand to provide electricity when demand is higher'* (*Core Document 4.3, paragraph 3.3.26*).
- the various services that electricity storage can provide, including maximising the usable output from intermittent sources like solar, reducing the amount of generation capacity needed on the system, providing a range of balancing services, and reducing constraints on the networks (*Core Document 4.3, paragraph 3.3.27*).

9.59. I also draw attention to the general framework established in EN-1 with regard to the statements that the government has demonstrated that:

- there is a need for the types of infrastructure identified (which includes solar pv development) which is urgent (*Core Document 4.3, paragraph 3.2.6*);
- that substantial weight should be given to this need when considering applications for development consent under the Planning Act 2008 (*Core Document 4.3, paragraph 3.2.7*); and

- that the government has concluded that there is a ‘critical national priority’ for the provision of nationally significant low carbon infrastructure.

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

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

9.61. I consider that considerable weight should be given to the policies set out in the NPS. In my opinion, this is due to the scheme’s benefits in terms of renewable energy electricity generation, and its contribution to the security of supply of electricity for the UK.

9.62. I note that the Inspector in the recent *Honiley Road* decision (Core Document 6.34) recommended that ‘... EN-1 in its totality was a material consideration in this case’, that the ‘remarkable’ shift and clear policy steer that is given in relation to Green Belt and solar development was pertinent in that case and that it should be afforded moderate weight in favour of the proposal (Core Document 6.34, paragraph 198). I note too that the Secretary of State, whilst allowing the appeal, identified that the proposal did not fall within the scope of the Planning Act 2008 as Critical National Priority infrastructure, and that she did not attribute weight to EN-1 in this decision (Core Document 6.34, paragraph 31). However, I am concerned that the approach seemingly adopted by the Secretary of State in this instance represents a binary approach which directly conflicts with the NPS which expressly allows for it to be a material consideration in sub-50MW generation schemes. If one were to apply the Secretary of State’s reasoning, there would never be a Town and Country Planning Act project (which by definition must be of sub-50MW scale) to which the NPS could apply. My reading is that the NPS can be a material consideration for the decision-taker to apply to non-NSIP scale projects.

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

9.63. EN-3 (Core Document 4.4) was also revised and presented to the Houses of Parliament in November 2023.

9.64. Under the specific heading of Solar Photovoltaic Generation at Section 2.10, EN-3 confirms that ‘The Government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions by 2050. As such solar is a key part of the government’s strategy for low-cost decarbonisation of the energy sector.’ (Core Document 4.4, paragraph 2.10.9).

9.65. I note that the Government affirms that ‘solar also has an important role in delivering the government’s goals for greater energy independence and the British Energy Security Strategy states that government expects a five-fold increase in combined ground and rooftop solar development by 2035 (up to 70GW)’ (Core Document 4.4, paragraph 2.10.10).

- 9.66. EN-3 further explains that solar farms are one of the most established renewable electricity technologies in the UK, the cheapest form of electricity generation, can be built quickly and with consistent reductions in the cost of materials and improvements in efficiency, are now in some cases viable to deploy subsidy-free (*Core Document 4.4, paragraphs 2.10.13–2.10.14*).
- 9.67. Under the heading of ‘Pumped Hydro Storage’ at Section 2.9, energy storage is considered generally and EN3–confirms that *‘Electricity storage is essential for a net zero energy system, it stores electricity when it is abundant for periods when it is scarce, as well as providing a range of services to help maintain the resilience and stability of the grid’*. It goes on to say that *‘The need for electricity storage is rising as we increase the volume of variable renewables and increase peak demand through the electrification of heat and transport. It will be critical to maintaining energy security as we shift away from gas over 2020s–30s’* (*Core Document 4.4, paragraphs 2.9.9 & 2.9.10*).
- 9.68. EN-3 also recognises that *‘As the electricity grid sees increasing levels of generation from variable renewable generators such as offshore wind, onshore wind and solar power, there will be an increasing need for storage infrastructure to balance electricity supply and demand. PHS could therefore be a key piece of infrastructure for enabling increased use of renewable generation’* (*Core Document 4.4, paragraph 2.9.26*).
- 9.69. It then explains a number of key considerations involved in the siting of a solar farm, and also technical considerations for the Secretary of State to consider. I have taken these considerations into account as relevant in my Evidence as the specific consideration arises, but would draw attention to the section of ‘Project lifetime and decommissioning’, where EN-3 advises that *‘the time limited nature of the solar farm, where a time limit is sought as a condition of consent, is likely to be an important consideration for the Secretary of State’* (*Core Document 4.4, paragraph 2.10.150*). I further note that the Appeal Scheme is proposed to be limited for an operational period of up to 40 years from the date of the first export of electricity, and therefore this project lifetime consideration should be given significant weight in the decision.

Appeal Decisions

- 9.70. There is now a considerable body of evidence of appeal decisions issued over the last several years where the increasing government energy policy imperative to accelerate the delivery of renewable or low carbon energy schemes have been a key material consideration and policy driver.
- 9.71. When considering the general need for, and weight afforded to, renewable energy and while each scheme must be considered on its merits, it is sensible to have regard to the national picture. It is clear from the suite of Secretary of State and Inspector decisions before the Inquiry that many sensitive sites and sites in protected areas have been granted permission on the basis of the urgency of the need for solar development and the imperative of using grid opportunities where they arise. This includes *Halloughton* in respect of heritage interests (*Core Document 6.9*), and *Telford* in respect of valued landscapes (*Core Document 6.15*).
- 9.72. Specifically with regard to sites proposed within Green Belt locations, there are a number of schemes where solar and BESS schemes have been granted permission, including at Chelmsford (*Core Document 6.12*), Fobbing (*Core Document 6.30*) and Honiley Road (*Core Document 6.34*); and further examples of standalone energy storage facilities being allowed in the Green Belt which I refer to at Section 11 of my Evidence.

- 9.73. I comment on the appeals included in the Core Documents list as appropriate when examining the weight which Inspectors have afforded to various material considerations in the planning balance section set out in Section 11 of my Evidence.
- 9.74. Although I have reached the conclusion in Section 8 of my Evidence that the Proposed Development is in accordance with the Development Plan when read as a whole, and therefore that it should be approved without delay applying the advice of the NPPF (*paragraph 11*), it is also necessary to consider whether material considerations indicate otherwise.

10. Third Party Representations

- 10.1. I note that a number of matters have been variously raised in representations on the Planning Application and the subsequent appeal.
- 10.2. I set out a summary of the comments made and a response to each of the considerations in **Appendix 2** to my evidence, together with signposts to application documentation and the relevant sections of the SoCGs as appropriate.

11. The Overall Planning Balance, Summary and Conclusions

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

The Decision-Making Framework

- 11.2. The starting point for the determination of a planning application or appeal is the Development Plan. The planning system is “plan led” and planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 11.3. Before reaching a conclusion on this matter, I turn to consider whether, in terms of national Green Belt policy and **Policy DM19** (and **Policies DM6** and **DM10**), there are Very Special Circumstances which clearly outweigh the potential harm to the Green Belt and any other harm resulting from the Appeal Scheme.

Material Considerations and Weight

- 11.4. In considering the weight that should be afforded to each consideration in the overall planning balance, I apply the following scale ranging from high to low:
- Substantial
 - Significant
 - Moderate
 - Limited
- 11.5. Such weight may be ‘positive’ as a benefit, ‘adverse’ as a harm, or of ‘neutral’ effect.
- 11.6. Set out below is an assessment of each of these material considerations followed by a conclusion on whether the benefits outweigh any adverse impacts identified when taken as a whole.

Material Considerations which are Benefits

1. Renewable Energy Generation and Reduction in Carbon Emissions

- 11.7. The proposed solar farm would supply 24.6MW 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 to a reduction in c.1,680 cars on the road every year.
- 11.8. I draw attention to the specific mention in the NPPF paragraph 151 which states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Given that it is agreed with the LPA

in the Need SoCG (*Core Document 9.5, Section 2*) that the Appeal Scheme would make a contribution towards meeting local, national and international objectives and objectives in terms of energy generation, it is relevant to consider the weight that the Secretary of State and Inspectors have given to the benefit of renewable energy generation in determining recent appeals.

- 11.9. At *New Works Lane, Telford*, the Secretary of State allowed a 30MW solar farm in March 2023 and considered that significant weight should be given to the production of electricity (*Core Document 6.15, paragraph 23*).
- 11.10. At *Crays Hill, Basildon* the Inspector allowed a 25.6MW solar farm in the Green Belt in August 2023 and in so doing applied “very significant weight” to the renewable energy generation and carbon savings (*Core Document 6.22, paragraph 25*).
- 11.11. In September 2023 at *Sherbourne*, a solar farm of about 20MW was also allowed in the Green Belt and the Inspector considered that the proposal would provide a ‘very significant environmental benefit’ given the clear support given to renewable energy development from a number of sources (*Core Document 6.31, paragraph 34*).
- 11.12. At *Hall Lane, Kemberton*, the Inspector in allowing the appeal for a 22MW solar farm in the Green Belt in February 2024 afforded “substantial weight” to the renewable energy benefit of the development (*Core Document 6.26, paragraph 65*).
- 11.13. In March 2024, at *Great Wheatley Farm, Rayleigh*, the Inspector in allowing the appeal for a 30MW solar farm in the Green Belt in March 2024 afforded “substantial weight” to the renewable energy benefit of the development (*Core Document 6.28, paragraph 47*).
- 11.14. Finally, in July 2024, at *Honiley Road*, the Secretary of State allowed a 23.1MW solar farm and 57MW battery storage facility in the Green Belt and considered that the benefits associated with the provision of renewable energy should collectively carry “substantial weight” (*Core Document 6.34, paragraph 24*).
- 11.15. In reviewing these appeal decisions, there is very clearly a consistent approach from the Secretary of State and appointed Inspectors in determining solar farm appeals of a similar scale to the Appeal Scheme over the last 2 years that either ‘significant’ or ‘substantial’ weight should be given to this benefit.
- 11.16. Further, the publication of the latest suite of NPS’s which I refer to in Section 8 of my Evidence, where the latest published version of EN-1 states that the government has demonstrated that there is a need for those parts of infrastructure which is urgent (which includes solar as part of the new electricity generating plants needed) and that, in addition, substantial weight should be given to this need in determining applications for development consent under the Planning Act 2008³. Whilst I accept that this policy statement applies to NSIP projects, the policies in the NPS are capable of being material considerations in determining this Appeal and should in my opinion carry substantial weight in the determination of this appeal.
- 11.17. I also note that the Planning Officer in the Committee Report to the LPA advised that the contribution to the production of renewable energy and consequential reduction in CO₂

³ Paragraphs 3.2.6 and 3.2.7, EN-1 (*Core Document 4.3*)

emissions should be afforded substantial positive weight in the consideration of the planning balance (*Core Document 2.4, paragraph 6.171*). It is also agreed with the LPA in the Overarching SoCG at paragraph 8.12 that this consideration should be given substantial positive weight.

- 11.18. Taking all the above into account, I am of the opinion that, due to imperative to deliver renewable energy schemes which can assist in decarbonising the UK's electricity supply, that the benefit of the solar farms renewable energy generation should be afforded **substantial** positive weight in determining this appeal.

2. Climate Emergency

- 11.19. A national climate emergency was declared by the UK Parliament in May 2019 (*Core Document 4.11*).
- 11.20. Chelmsford City Council and Rochford District Council subsequently declared a Climate Emergency in July 2019 and July 2023 respectively (*Core Document 5.7 and 5.9*), which require Council's activities to become net-zero by 2030.
- 11.21. Through the generation of renewable energy and also the provision of electricity storage, I consider that the Appeal Scheme will contribute towards addressing these declarations of climate emergencies.
- 11.22. I note that the Planning Officer in the Committee Report to the LPA acknowledges the climate and ecological emergency declared by the Council (*Core Document 2.4, paragraph 6.6*). It is also agreed with the LPA in the Need SoCG in the table at paragraph 4.1 that this consideration should be given significant positive weight.
- 11.23. By providing a positive, deliverable action on these statements of intent, I consider that the declaration of climate emergencies at both the national and local level is a material consideration which should be afforded **significant** positive weight in the planning balance.

3. Energy Security

- 11.24. The Appeal Scheme will supply renewable energy to the National Grid, comprising secure, distributed and diversified energy generation which fully accords with the Government policy on energy security. I have set out earlier in my Evidence in Section 9 a summary of the latest Government energy policy, notably in the British Energy Security Strategy published in 2022 and the Energy Security Plan published in March 2023.
- 11.25. I consider that energy security should be regarded as a material consideration in its own right, one which is separate to the generation of renewable energy per se⁴. In this regard, I draw attention to the latest published version NPS EN-3 (*Core Document 4.4*) which, when setting the policy for Solar Photovoltaic Generation at Section 2.10, refers at paragraph 2.1.9 to solar playing a key part of the government's strategy for low-cost decarbonisation of the energy

⁴ Renewable energy generation by virtue of its contribution to reducing carbon emissions and the drive to decarbonise the electricity system is a separate and distinct type of benefit i.e. there could be a security crisis without a climate crisis.

sector in the context of the net zero emission pathway to 2050; but then in a separate following paragraph 2.10.10 goes to on to state that:

‘Solar also has an important role in delivering the government’s goals for greater energy independence ...’ (underlining is my emphasis) (Core Document 4.4, paragraph 2.10.10)

- 11.26. At *Cutlers Green Lane, Thaxted*, the Inspector in allowing an appeal for a 40 MW solar farm in December 2023 afforded substantial weight to the contribution the development would make to a low carbon economy and the provision of low cost and secure energy (Core Document 6.24, paragraph 141). Similarly, in the cases of *Hall Lane, Kemberton* and *Great Wheatley Farm* the renewable energy benefit of the proposal in terms of its contribution towards energy security and resilience was afforded “substantial weight” (Core Documents 6.26, paragraph 65 and 6.28, paragraph 47 respectively).
- 11.27. Given the above recent policy statements, I am of the opinion that delivering energy security is both ‘urgent’ and of ‘critical importance’ to the country (Core Document 4.20, page 38), and as such should be afforded **substantial** positive weight in the planning balance.

4. Battery storage facility

- 11.28. The battery storage facility would be utilised to assist in balancing the peak demands for electricity across the National Grid, and that the deployment of battery energy storage facilities has been identified by the Government as an important part of its drive to decarbonise the UK electricity system.
- 11.29. The UK Government in Energy Security Strategy is supportive of solar that is co-located with other functions, which includes storage, to maximise the efficiency of land use (Core Document 4.18, page 19) and this has been reaffirmed more recently in the November 2023 version of EN-3 (Core Document 4.4, paragraph 2.10.10).
- 11.30. In February 2023, at *Bramley*, a battery storage facility was proposed to be co-located with a solar farm, the Inspector noted it represented a means of load shifting whereby energy generated during times when demand is at its lowest could be released back to the grid at times of peak demand. The Inspector went on to consider that the battery storage aspect of the proposal would offer flexibility in operation and maximise energy resources in a balanced and efficient way (Core Document 6.14, paragraphs 61 and 62).
- 11.31. At *Copse Lodge*, similarly a battery storage facility was proposed to be co-located with a solar farm and this was again seen as a benefit of the scheme with the Inspector noting that the output of the scheme would be supported by the provision of battery storage to allow for a more flexible and even distribution to the grid and the possibility to offset fossil fuel requirement at peak times (Core Document 6.23, paragraph 121).
- 11.32. At *Fobbing*, the Inspector found that an associated battery storage facility would assist in balancing peak demand for electricity, providing more flexibility for the grid and the possibility of offsetting fossil fuel requirements at peak times. He went on to say that the co-location of a battery energy storage system would mean that the renewable energy generated could be used more effectively (Core Document 6.30, paragraph 62).
- 11.33. There are further appeals where schemes comprising standalone BESS facilities have been allowed in the Green Belt. In August 2022, at *Wolverhampton* an Inspector allowed a 50MW

battery storage energy system in the Green Belt noting that there is strong national policy support for the development of battery storage which would aid in the storage of energy generated from renewable sources which by their nature, intermittently generate energy (Core Document 6.29, paragraph 12). The Inspector found that the appeal scheme would make a valuable contribution to cutting greenhouse gas emissions, by increasing the opportunity to store energy affording it 'substantial weight' (Core Document 6.29, paragraph 16).

- 11.34. In June 2024, at *Whites Farm*, the Inspector allowed a battery storage facility in the Green Belt noting whilst battery storage is not energy production per se, it would contribute to the balancing of the local electricity network, providing a flexible supply that complements fluctuations in energy supply and in so doing would increase the security of supply to the surrounding area (Core Document 6.33, paragraph 31). Further, the Inspector concluded that very special circumstances existed which comprised very significant benefits, including, inter alia, the need for the BESS in terms of climate change, energy security, and energy affordability (Core Document 6.33, paragraph 44).
- 11.35. It is agreed with the LPA in the Need SoCG in the table at paragraph 4.1 that this consideration should be given significant positive weight.
- 11.36. I attach **significant** positive weight to this consideration as a benefit of the Appeal Scheme.

5. Grid connection

- 11.37. It is well established that grid-connections are a scarce resource in the UK and represents a major barrier to the transition to net zero. The Energy Security Strategy 2023 (Core Document 4.20, page 50) explains that connections times are a very significant issue, with over 250GW of generation in the transmission queue. To put the scale of that connection queue into context, that is over 3 times the schemes currently connected into the grid of 80GW. I therefore conclude that the availability of a grid connection offer of up to 49.9MW for the Appeal Scheme is a significant benefit.
- 11.38. The availability of a grid connection offer, which will enable the Appeal Scheme to make an early contribution to the generation of low carbon energy, is another significant consideration.
- 11.39. At *Selby*, where the proposed development was for a standalone battery energy storage scheme, the Inspector noted that one of the most important factors was the ability to connect to the National Grid. He noted that the Appellant had submitted evidence that demonstrates that future connections to the National Grid will be challenging and applicants face a 10 year wait to connect to the grid due to existing capacity being exhausted. He concluded in the following terms:
- “Therefore, projects that have secured connection are fundamental to achieving net zero targets given the increased requirement for storage capacity. This proposal has an agreed connection to the grid in 2024 which significantly adds to the overall benefit of the scheme.”*** (Core Document 6.36, paragraph 36)
- 11.40. There are advantages of connecting directly into the National Grid (Transmission) Network rather than the Distribution Network, including avoiding considerable delays in securing a connection agreement via the Distribution Network Operator.

- 11.41. I attach **moderate** positive weight to this consideration as a benefit of the Appeal Scheme.
- 11.42. This weight is agreed with the LPA in the Need SoCG in the table at paragraph 4.1 that this consideration should be given moderate positive weight.

6. Best Available Technology and Good Design

- 11.43. 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.
- 11.44. This positive approach to design chimes with that outlined in NPS EN-1 (*Core Document 4.3*), where at Section 4.7 it notes that “the functionality of an object – be it a building or other type of infrastructure – including fitness for purpose and sustainability, is equally important [to aesthetic considerations].” (*Core Document 4.3, paragraph 4.7.1*). Equally, EN-1 acknowledges that the nature of energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area (*Core Document 4.3, paragraph 4.7.2*).
- 11.45. Notwithstanding these general constraints to design for an energy infrastructure project, the iterative design process which was undertaken by the Appellant is set out in the Design and Access Statement which accompanied the planning application (*Core Document 1.28*).
- 11.46. The Appeal Scheme will comprise the latest best available technology that delivers greater levels of solar efficiency by utilising a solar tracking system together with bi-facial panels, which increase continuous electrical productivity by 20–25% when compared to traditional fixed solar arrays.
- 11.47. I consider that the Appeal Scheme incorporates technological features that not all solar farm projects currently propose and will be capable of deploying. It is therefore the case, in my opinion, that the Appeal Scheme benefits from the proposing the utilisation of the most efficient technology currently available and this is a material consideration of **moderate** positive weight in determining this appeal.

7. Lack of Alternative Sites

- 11.48. It is important to note that there is no national or local policy requirement to carry out an assessment of alternative sites for solar farm developments, as was acknowledged by the Inspector at *Scruton* (*Core Document 6.20, paragraph 27*).
- 11.49. However, alternatives have been considered through the evolution of the design and location of the Appeal Scheme, including consideration of alternative sites. The approach to the consideration of alternatives by the Appellant is set out in the Alternative Sites Assessment appended to the Planning Statement which accompanied the Planning Application (*Core Document 1.38, Appendix 2*).
- 11.50. 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 suitable and available for the Proposed Development.
- 11.51. In *Chelmsford*, the Inspector accepted that a solar farm requires grid capacity and a viable connection to operate. He further considered that as such, this requirement places a locational restriction on site selection that limits the number of appropriate sites for such a

facility, and he further noted that the national grid suffers capacity difficulties and limits suitable points of connection. He concluded that this '*rational approach*' to site selection lent support for the selected site (*Core Document 6.12, paragraph 92*).

- 11.52. I consider that the lack of suitable alternative sites, is a positive material consideration of **significant** positive weight in this appeal.

8. Biodiversity net gain

- 11.53. There will be a number of biodiversity benefits and I refer to the Ecological Appraisal Report which accompanied the Application (*Core Document 1.30*). In summary, the report explains at Paragraph 4.3.8 that the habitat enhancements incorporated into the Appeal Scheme include:

- i. Native tree and hedgerow planting, including infilling of existing hedge gaps;
- ii. Development of extensive areas of structurally and species-diverse grassland; and
- iii. The addition of bat, bird and hedgerow boxes as well as insect hotel/refuge and log piles.

- 11.54. Overall, the Appeal Scheme will deliver Biodiversity Net Gain of +138% for habitat units and +85% in hedgerows units through the implementation of the Appeal Scheme, as agreed with the LPA in the Overarching SoCG (*Core Document 9.4, paragraph 8.24*).

- 11.55. With regard to the weight recently attached at other solar pv appeals to similar net gains, I note the following:

- At *Honiley Road* a BNG of 135.9% was afforded 'substantial weight' by the Secretary of State (*Core Document 6.34, paragraph 25*);
- *Great Wheatley Farm* a net gain of 141% for primary habitats and 165% for linear habitats was given 'significant weight' (*Core Document 6.28, paragraph 48*);
- *Graveley Lane* the Secretary of State afforded a net gain of 206% in habitat units and 102% in hedgerow units 'significant weight' (*Core Document 6.27, paragraph 23*);
- *Cutlers Green* a net gain of 153% in area habitat and 20% in hedgerow units was given 'significant weight' (*Core Document 6.24, paragraph 144*);
- *Copse Lodge, Greatworth* a net gain of 71% in habitat units and 33% in hedgerow units was attributed 'significant weight' (*Core Document 6.23, paragraph 7.33*);
- *Crays Hall* a BNG of 94% in area habitats and 53% linear habitats attracted 'substantial weight' (*Core Document 6.22, paragraph 25*);
- *Bramley*, the Inspector gave 'significant weight' to a biodiversity net gain of 100% (*Core Document 6.14, paragraph 78*);
- *Langford*, the Secretary of State concluded that the BNG benefit was a 'substantial' benefit, which he attributed 'significant weight' in determining the appeal (*Core Document 6.11, paragraph 23*);

- *Bishops Itchington* the level of BNG (which was unspecified) attracted 'significant weight' (*Core Document 6.10, paragraph 34*); and
- *Halloughton* a net gain of 73% was given 'significant weight' appeal (*Core Document 6.9, paragraph 59*).

11.56. I note that in the Need SoCG, the LPA consider that 'significant' weight should be given to this benefit. However, given these precedents of biodiversity net gain for solar farms, I consider that this very significant increase in BNG should also be afforded **substantial** positive weight in the planning balance.

9. Green Infrastructure and Environmental Benefits

11.57. The proposed enhancements to landscape structure will greatly improve green infrastructure, including enhanced connectivity across and within the Appeal Site and contribute to the wider network beyond, whilst incorporating features to address habitat and wildlife creation and secure net gains in green infrastructure. These measures would serve to create a coherent landscape framework across the Appeal Site which would deliver a number of long-term environmental benefits.

11.58. I note that the Planning Officer in the Committee Report to the LPA advised that moderate positive weight should be given to this consideration in the planning balance (*Core Document A26, paragraph 6.49*).

11.59. With regard to agricultural land and soils, the Appeal Site is predominantly Grade 3b quality (73.5% / 50.4ha) with the remainder of the site in Grade 3a (26.5% / 18.2ha). The latter falls within the 'Best and Most Versatile Agricultural Land' classification. I note that the Planning Officer in the Committee Report to the LPA considered the loss of BMV land. The Officer acknowledged that Natural England was consulted on the planning application and they were content that there would not be a significant permanent loss of BMV agricultural land as a resource for future generations. The Officer went on to find that whilst the removal of arable production is a material consideration, this must be balanced against the benefit of the proposal in reducing greenhouse gas emissions through renewable and low carbon energy and associated infrastructure (*Core Document 2.4, paragraphs 6.103 and 6.104*).

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

11.61. The Planning Officer in the Committee Report to the LPA contends that very limited weight should be given to this consideration, as it is a common farming practice to let land lie fallow for an extended period of time to improve cultivation (*Core Document 2.4, paragraph 6.153*). In the Need SoCG, the LPA afford no additional positive weight to these considerations. I disagree. The improvement of soils is a consideration specifically identified in the NPPF at paragraph 180(a), where protecting and enhancing soils is identified as an aspect of enhancing the natural and local environment.

11.62. At *Crays Hall*, I note that the Inspector accepted that the longer term benefits to soil structure added weight to the environmental benefits of the project overall (*Core Document 6.22, paragraph 25*). While at *Copse Lodge*, the Inspector accepted that the construction and decommissioning of the solar farm is capable of taking place without significant disturbance to soils and the likely outcome would be soil improvement with the short and

relatively light-touch construction required and the long period when the land would be left with limited or no artificial inputs – i.e. worked by machinery and use of fertilizers. The land quality would remain at existing levels or even experience some improvement (*Core Document 6.23, paragraphs 126 and 127*).

- 11.63. I attach **moderate** weight to these considerations as a benefit of the Appeal Scheme.

10. Farm diversification

- 11.64. The NPPF at paragraph 88(b) acknowledges that the diversification of agricultural businesses should be enabled.
- 11.65. Due to the relatively low income received from agricultural activities, many farming enterprises seek to diversify their income to secure an economically sustainable profit. Income from renewable energy is an important form of farm diversification.
- 11.66. The National Farmers Union see renewable energy as an important step towards making British agriculture carbon neutral within two decades, an important consideration as farming is responsible for around one tenth of UK greenhouse gas emissions (*Core Document 4.24*).
- 11.67. I attach **limited** positive weight to this consideration as a benefit of the Appeal Scheme.
- 11.68. It is agreed with the LPA in the Need SoCG in the Table at paragraph 4.1 that this consideration should be given limited positive weight.

11. Economic benefits

- 11.69. 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). The annual business rates contribution would also benefit the economy over the lifetime of the Proposed Development.
- 11.70. At *Bramley*, I note that the Inspector afforded '**significant**' weight to economic benefits associated with that solar farm scheme (*Core Document 6.14, paragraph 79*), whereas at *Copse Lodge* the Inspector gave '**moderate**' weight to the temporary construction jobs and longer-term business rate benefits (*Core Document 6.22, paragraph 124*).
- 11.71. I also attach **moderate** positive weight to this consideration as a benefit of the Appeal Scheme.
- 11.72. It is agreed with the LPA in the Need SoCG in the table at paragraph 4.1 that this consideration should be given moderate positive weight.

Material Considerations which are harms

1. Openness and purposes of the Green Belt

- 11.73. In Section 7 of my Evidence, I have already considered the potential harm of the Appeal Scheme to the openness and purposes of the Green Belt and have concluded that the development would be inappropriate development in the Green Belt and would by definition therefore result in harm to the Green Belt. As to the nature and extent of this harm, I

considered the Appeal Scheme would result in moderate harm to the Green Belt in both spatial and visual terms, and that it would further result in some encroachment, which is in contradiction to one of the five purposes of the Green Belt. In respect of the other four purposes, I do not consider there to be harm in this instance.

- 11.74. All such harm to the Green Belt should be afforded **substantial adverse** weight in the planning balance.

2. Effect on Landscape

- 11.75. In respect of Landscape and Visual matters, Mr Cook explains in his Evidence the nature of the conclusions of the submitted Landscape and Visual Assessment (*Core Document 1.35*) and his own assessment as to how the Proposed Development would have an effect upon landscape elements, landscape character and visual amenity, and the positive approach proposed to be adopted through the detailed Landscape Design Plan (*Core Document 9.10, Mr Cook's Appendix 2*).
- 11.76. The Appeal Scheme has a proposed operational lifespan of 40 years, and that at the end of this period the Appeal Scheme would be decommissioned, the equipment removed from the Appeal Site, and the restored site would then continue in agricultural use. The Appeal Scheme is therefore considered to be a temporary development.
- 11.77. Whilst I acknowledge that the duration of 40 years is a significant period of time, it is nevertheless not permanent and will be completely reversible when the planning permission expires. This is in notable contrast to many other forms of development, such as housing or commercial buildings, where such development would be a form of built development that would endure in perpetuity.
- 11.78. Having regard to all the foregoing, and given Mr Cook's evidence on the nature and extent of landscape and visual effects in which he concludes that in terms landscape character, the landscape is able to accommodate a renewable energy generating installation and the physical character of the surrounding landscape would remain and prevail unchanged with the Proposed Development in place; and that in terms of visual impact, the effects of the Proposed Development would be very limited due to its substantial visual containment as a result of topography and surrounding vegetation, and where seen only small elements of the scheme would be observed and it would not be possible to appreciate the totality of the Proposed Development from any one viewpoint location, I consider that these matters should be afforded **limited** adverse weight.

3. Effect on Heritage significance

- 11.79. In respect of Built Heritage matters, the Heritage SoCG (*Core Document 9.8*) explains that the effect of the Appeal Scheme on the heritage significance of heritage assets within the Appeal Site and the significance of those located in the surrounding area. The agreed Heritage SoCG considers the impact of the Appeal Scheme on the heritage significance of the setting of the Grade I listed Church of All Saints (situated c 1km north-east of the Appeal Site) and concludes that there is less than substantial harm at the low end of that spectrum of this designated heritage asset.
- 11.80. With regard to the impact of the Appeal Scheme on the non-designated heritage assets, it is a matter of dispute as to the level of harm that would occur to the heritage significance of

the WWII pillboxes within and in the vicinity of the Appeal Site, and whether harm would occur to the heritage significance of the Toby Carvery.

- 11.81. In respect of the non-designated WWII pillboxes, the Planning Officer in the Committee Report to the LPA considered *"the inter visibility between the pillboxes, lines of fire and landscape setting are important to the setting of the pillboxes and contributes to their significance"*. They conclude that this would be eroded by the Appeal Scheme adversely affecting their setting to give rise to a moderate level of harm (*Core Document 2.4, paragraph 6.109*).
- 11.82. Having regard to this, Ms Stoten in her evidence at **Appendix 3** considers that the significance of the assets is largely derived from their physical form, which has historical and architectural interest. Setting contributes, but to a lesser degree. Taking into account the specific outlook of the eastern pillbox, and the generalised and now obstructed outlook of the northern pillbox, the site makes only a minor contribution to the heritage significance of the assets through setting. The construction of the Proposed Development would leave the framework of the landscape in place, including the railway and hedgerows, but reduce visibility across intervening areas. Construction of the Proposed Development would result in a minor level of harm to the non-designated heritage assets.
- 11.83. Whilst in terms of the non-designated Toby Carvery, the Planning Officer in the Committee Report to the LPA considered its rural setting contributes to its significance and that *"the northeast part of the Appeal Site contributes to its setting, even though it is severed by Runwell Road and screened, there would be a low level of harm to its setting"* (*Core Document 2.4, paragraph 6.110*).
- 11.84. Having regard to this, Ms Stoten in evidence at **Appendix 4** considers that the significance of the asset is primarily derived from the fabric of the asset, which has architectural, artistic and historic interest. Setting makes a contribution but to a lesser degree. The areas which contribute to the asset through setting comprise the current and historic grounds, and any wider historically associated and intervisible farmland to the north. Taking into account the minimal intervisibility and the lack of documented historic association, the Appeal Site is not considered to contribute to the significance of the asset through setting, and no harm would be caused to the heritage significance of the asset through the construction of the proposed development.
- 11.85. With regard to the weight that should be afforded to the 'less than substantial harm' to the significance of designated heritage assets, I have had regard to NPPF paragraph 205 the great weight should be given to the assets' conservation (the more important the asset, the greater the weight should be). I have also had regard to Case Law that considerable importance and weight should be given to harm to the significance of a Listed Building, including through setting. Given that the level of harm would be at the low end of the spectrum, as agreed in the Heritage SoCG (*Core Document 9.8, paragraph 2.3*), I consider that the weight in the planning balance afforded to effect on designated heritage assets should be afforded **limited** adverse weight.
- 11.86. Any harm to the significance of the non-designated heritage assets (as noted above) should be taken into account in determining the Appeal, applying a balanced judgement having regard to the scale of any harm and the significance of the heritage asset, in accordance with NPPF paragraph 209. I consider in this regard that the public benefits arising from the Appeal Scheme (which I have set out earlier in this section of my Evidence) outweigh any harm to

the significance of the non-designated WWII pillboxes. This is agreed between the parties in the Heritage SoCG (*Core Document, paragraph 9.8*), I therefore consider that the weight in the planning balance afforded to effect on non-designated heritage assets should be afforded **limited** adverse weight.

- 11.87. I note that the Council in their Statement of Case consider that the benefits of the proposal outweigh the level of harm identified and does not intend to call heritage evidence on this matter (*Core Document 9.3, paragraph 6.5*). This reflects the position set out by the Planning Officer in the Committee Report to the LPA where they concluded that the renewable energy benefits from the proposal would outweigh the identified heritage harm (*Core Document 2.4, paragraph 6.113*). Further, both parties agree in the Heritage SoCG that the public benefits of the Proposed Development would outweigh the harm that would be caused to both designated heritage assets and non-designated heritage assets (*Core Document 9.8, paragraphs 2.3 and 2.4*).

3. Material Considerations which are Neutral

- 11.88. I consider that the following material considerations should be afforded neutral weight in the overall planning balance.
- 11.89. In respect of **archaeological matters**, I have had regard to the Heritage Statement which accompanied the Application, and the conclusion of the LPA's Archaeological Advisor that no objection was raised, subject to a condition of an archaeological programme of trial trenching and excavation. Subject to an appropriate planning condition being imposed, I consider that there is no material harm to weigh in this regard.
- 11.90. In respect of **flood risk matters**, although a small part of the Appeal Site lies within Flood Zones 2 and 3a, I consider that the Proposed Development is within the 'essential infrastructure' category of land uses set out in the Flood Risk Vulnerability Classification as set out in the NPPG, and further that both the Sequential Test and Exception Tests are passed. A separate note has been prepared by the Appellant to further assist the Inspector in this matter as requested at the CMC (*Core Document 9.13*).
- 11.91. I however note that the Council now assert the Appellant has not demonstrated that the Sequential Test has been passed and this is therefore an area of dispute between the parties (*Core Document 9.4, paragraph 9.4*). This is despite agreement in the Flood Risk SoCG (*Core Document 9.6*) that:
- The Council raised no objections at the determination of the Planning Application in respect of flood risk and drainage (*paragraph 4.5*);
 - The Council as the decision-maker for the Planning Application raised no objections to the Proposed Development in respect of the Sequential and Exception Tests (*paragraph 4.6*); and
 - There is no Reason for Refusal relating to flood risk and drainage, and in particular the Sequential and Exception Tests (*paragraph 4.7*).
- 11.92. The Council has therefore introduced this as an issue at the appeal stage and the basis for their assertion is set out in paragraph 5.2 of the Flood Risk SoCG that the other substations with capacity in the whole of England and Wales should be considered but stops short on advising on what would be a reasonable site area (*Core Document 9.6, page 12*).

- 11.93. The Appellant has however suggested what a reasonable search area would be and that is centred on the Rayleigh substation where the Appellant has an agreement with the National Grid for the Proposed Development to connect into during 2027. Both parties agree that the Proposed Development would make an early contribution to the generation of low carbon energy and that the Point of Connection (POC) is a factor in setting the search area for the Sequential Assessment, albeit the Appellant considers it to be the defining one for the type of development proposed (Core Document 9.6, paragraphs 5.5 and 5.6).
- 11.94. As is acknowledged in EN-3 (Core Document 4.4, paragraph 2.10.22), *'the capacity of the local grid network to accept the likely output from a solar farm is critical to the technical and commercial feasibility of a development proposal [for a solar farm]'*. EN-3 continues to explain at paragraph 2.10.24 that *'... the connection voltage, availability of network capacity, and distance from the solar farm to the existing network can have a significant effect on the commercial feasibility of a development proposal.'* National policy therefore is entirely clear that a critical pre-requisite that a solar farm project is that the development has available export grid capacity.
- 11.95. This requirement for a grid connection should also be seen in the context of the significant delays for solar projects applying to connect into the transmission network. The Connection Action Plan published in November 2023 sets out the severity of the issue explaining that over the last five years the volume of connection applications to the transmission network has grown approximately tenfold and this has led to an average delay of over five years for projects applying to connect. This significant delay is impacting on the ability to decarbonise the energy system, deploying low carbon technologies and attracting investment to the UK (Core Document 2.3, page 5).
- 11.96. The proximity to the POC at the Rayleigh substation is therefore the defining factor in setting the search area and this chimes with the guidance set out in the NPPG where it advises that the area to apply the Sequential Test is defined by local circumstances relating to the catchment area for the type of development proposed (Core Document 4.2, 'Flood Risk', paragraph 027).
- 11.97. Using the Rayleigh substation as the centre for the search area in the Sequential Test, no locations were shown to be sequentially preferable to the Appeal Site in terms of flood risk and concluded that there were no other reasonably available alternative sites within the search area (Core Document 9.13, Section 4). This is agreed by the Council in the Flood Risk SoCG in that the alternative locations identified were subject of their own associated flood risk constraints to an equal or greater extent than the Appeal Site (Core Document 9.6, paragraph 5.7).
- 11.98. Moreover, even if there were alternative sites which were sequentially preferable in flood risk terms and which could come forward in a reasonable timeframe using the secured grid connection (which they cannot), given the overwhelming need for renewable energy generation, these sites would be "additional" sites, and not alternatives in the sense that many solar schemes are required to meet the Government's net zero targets⁵.

⁵ See my Evidence in Section 9 relating to 'Progress' and my earlier Footnote 2.

- 11.99. Despite the dispute on the Sequential Test, it is common ground between the parties that the Proposed Development has satisfied the Exception Test.
- 11.100. Therefore, I consider that there is no material harm to weigh in this regard.
- 11.101. In respect of **ecological matters**, the effect of the Appeal Scheme on nature conservation and biodiversity interests both on and off site has been carefully considered in the Ecological Appraisal Report which accompanied the Application. Through consultation with consultees, this has allowed for the designed-in avoidance, mitigation and enhancement measures proposed in the Appeal Scheme. As a result, all ecological impacts can be avoided, mitigated or compensated for, such that the outcome will be an overall significant net gain in biodiversity as I have discussed earlier in this section of my Evidence.
- 11.102. In respect of **residential amenity**, I consider that there would not be unacceptable visual effects to private residential properties; nor potential glint and glare; nor noise effects, arising from the Appeal Scheme.
- 11.103. In respect of **vehicular access** for construction and operation, I consider that acceptable traffic and access arrangements can be achieved during the construction and operational phases of the Appeal Scheme.
- 11.104. I therefore consider that the Appeal Scheme is acceptable with regard to all the above matters.

Overall Green Belt 'very special circumstances' balance

- 11.105. In conclusion, having examined the benefits outlined above, and also the limited harm to the openness of the Green Belt (which should be afforded great weight), and to any other harms as assessed above in respect of Landscape and to Built Heritage, I consider that 'very special circumstances' are demonstrated as the identified benefits clearly outweigh the harms identified to Green Belt and the other harm as identified above to landscape and heritage matters.

Planning Balance Summary Table

Material Considerations which are Benefits	Weight (Positive)
Renewable energy generation and reduction in carbon emissions	Substantial Positive Weight (LPA have agreed 'substantial', but also state 'significant')
Climate emergency	Significant Positive Weight (agreed with LPA)
Energy Security	Substantial Positive Weight (not agreed with LPA)

Battery storage facility	Significant positive weight (agreed with LPA)
Grid connection	Moderate positive weight (agreed with LPA)
Best Available Technology and Good Design	Moderate Positive Weight (not agreed with LPA)
Lack of Alternative Sites	Significant positive weight (not agreed with LPA)
Biodiversity net gain	Substantial positive weight (not agreed with LPA)
Green Infrastructure and environmental benefits	Moderate positive weight (not agreed with LPA)
Farm diversification	Limited positive weight (agreed with LPA)
Economic benefits	Moderate positive weight (agreed with LPA)
Material Considerations which are Neutral	Weight (Neutral)
Highways and Transport	Neutral Weight
Noise	
Glint and Glare	
Fire Safety and Hazards	
Flood Risk and Drainage	

Residential Amenity	
Material Considerations which are Adverse	Weight (Adverse)
Effect on openness and purposes of the Green Belt	Substantial Adverse Weight
Effect on Landscape Character and Visual Amenity	Limited Adverse Weight
Impact on designated heritage assets	Limited Adverse Weight
Impact on non-designated heritage assets	Limited Adverse Weight

- 11.106. Having regard to my analysis of the benefits of the Appeal Scheme which I consider amount to very special circumstances, it is my opinion that the Appeal Scheme complies with the Development Plan policies cited by the LPA in their Reason for Refusal. Even if there were to be a conflict with part of a policy, or even one policy in the Development Plan, this conflict would not automatically lead to the conclusion that there is conflict with the development plan taken as a whole having regard to the principles set out in *R. (on the application of William Corbett) v The Cornwall Council* [2020] EWCA Civ 508 (*Core Document 6.8*).
- 11.107. I therefore consider the Proposed Development is in accordance with the Development Plan when read as a whole.

12. Planning Conditions

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

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

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