

PINS REF: APP/B3030/W/21/3279533
LPA REF: 20/01242/FULM
PPG REF: P18-2917
DATE: NOVEMBER 2021

STATEMENT OF COMMON GROUND

BETWEEN:

JBM SOLAR PROJECTS 6 LTD

&



NEWARK AND SHERWOOD DISTRICT COUNCIL

**COTMOOR SOLAR FARM,
LAND NORTH OF HALLOUGHTON,
SOUTHWELL**

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

PROPOSAL:

**CONSTRUCTION OF A SOLAR FARM AND BATTERY STATIONS TOGETHER WITH
ALL ASSOCIATED WORKS, EQUIPMENT AND NECESSARY INFRASTRUCTURE.**

| | |
|---|---|
| Signed:  | Signed:  |
| Name: Honor Whitfield | Name: Paul Burrell |
| On behalf of: Newark and Sherwood District Council | On behalf of: Pegasus Group (acting on behalf of the appellant) |
| Date: 19/11/2021 | Date: 19/11/2021 |

CONTENTS:

| | Page No: |
|---|----------|
| 1. INTRODUCTION | 1 |
| 2. THE APPEAL SITE AND ITS SURROUNDINGS | 2 |
| 3. THE APPEAL PROPOSALS | 5 |
| 4. APPLICATION PLANS AND DOCUMENTS | 8 |
| 5. BACKGROUND AND REASONS FOR REFUSAL | 12 |
| 6. PLANNING HISTORY | 14 |
| 7. PLANNING POLICY | 15 |
| 8. MATTERS NOT IN DISPUTE | 19 |
| 9. MATTERS THAT REMAIN IN DISPUTE | 26 |
| 10. PLANNING CONDITIONS | 29 |

1. INTRODUCTION

- 1.1 This Statement of Common Ground (SoCG) has been prepared by Pegasus Group on behalf of JBM Solar Projects 6 Ltd.
- 1.2 It has been prepared in conjunction with Newark and Sherwood District Council (“the LPA”) and relates to a Section 78 appeal concerning Cotmoor Solar Farm, Land North of Halloughton, Southwell (“the Appeal Site”).
- 1.3 The purpose of this SoCG is to identify the areas where the principal parties (the Appellant and the LPA) are in agreement and to narrow down the issues that remain in dispute. This will allow the Public Inquiry to focus on the most pertinent issues.

2. THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The Appeal Site comprises thirteen agricultural fields to the north of the village of Halloughton. A separate area of woodland falls within the Appeal Site's red line boundary and is situated to the west of the solar site. This separate area is proposed for biodiversity enhancements.
- 2.2 The Appeal Site comprises land which crosses the boundaries of the Parishes of Halloughton and Southwell.
- 2.3 The southern portion of the Appeal Site is located to the north of Halloughton (and is situated within the Parish of Halloughton). This section of the Appeal Site comprises five large linear fields with boundaries at their edge, including copses at the western and part of the southern boundaries. An overhead electricity line and pylons cross this parcel in an east-west direction. The village of Halloughton lies to the south of this parcel and the A612 Highcross Hill lies to the east. Agricultural land surrounds the site in all other directions.
- 2.4 The northern section of the Appeal Site is located further from Halloughton and largely lies within the Parish of Southwell, comprising seven separate fields of various sizes. This parcel includes buildings associated with New Radley Farm, which has its own access track from the north. Southwell Footpath 42 runs adjacent to the western boundary of this part of the site in a north to south direction where it adjoins Southwell Footpath 43 which is located in the far northern extent of the site, adjacent to the northern boundary, running east to west. Bridleway (BW74) runs from the north-eastern edge of Halloughton Wood in a broadly east to west direction through the central portion of the Appeal Site. The same overhead electricity line runs east to west through this southern section of the site and the Westhorpe Dumble crosses the site in the same direction just to the north of this.
- 2.5 The following public rights of way are within the vicinity of the Appeal Site:
- PRoW Footpath 209/43/1 (Southwell 43);
 - PRoW Footpath 209/42/1 (Southwell 42);
 - PRoW Bridleway 209/74/1 (Southwell 74);
 - Halloughton Bridleway 186/3/1 (Halloughton Bridleway 3);

- Southwell Byway 209/80/2 (Southwell Byway 80);
 - Halloughton Byway 186/9/1 (Halloughton Byway 9).
- 2.6 Within the adopted Development Plan, a Site of Interest in Nature Conservation is identified as running in a broadly east to west direction through the northern portion of the Appeal Site. Additional Sites of Interest in Nature Conservation are located in close proximity to the western boundary of the Appeal Site.
- 2.7 An area of Ancient Woodland 'Halloughton Wood' is located c.150m to the west of the Appeal Site, at its closest point.
- 2.8 A series of existing field boundaries, hedgerows and vegetation are present around and across the proposed Appeal Site.
- 2.9 A number of isolated properties are located in close proximity to the Appeal Site's boundary, including New Radley Farm and Stubbins Farm.
- 2.10 With regard to nearby designations, most of Halloughton village is defined as a Conservation Area. Within which are the following Grade II and Grade II* Listed Buildings:
- Halloughton Manor Farmhouse (Grade II*, List ID: 1178664)
 - Church of St James (Grade II, List ID: 1045555)
 - Barn at Halloughton Manor Farm (Grade II, List ID: 1045556)
 - Pigeoncote, Granary and Stable Block at Manor Farm (Grade II, List ID: 1370180)
 - Barn at Bridle Road Farm (Grade II, List ID: 1178708)
- 2.11 Further Grade II Listed Buildings are located to the east of the Appeal Site as follows:
- South Hill House (Grade II, List ID: 1213124)
 - Brackenhurst Hall and Associated Estate Elements such as:
 - Brackenhurst Hall and Attached Coach House, Orangery and Garden Wall (Grade II, List ID 1369927)

- Gateway and Railings at Brakenhurst Hall (Grade II, List ID: 1289246)
- Lodge to Brakenhurst Hall (Grade II, List ID: 1213102)
- Garden Walls and Potting Sheds 100 Metres North East of Brakenhurst Hall (Grade II, List ID: 1046108)

2.12 Part of the proposed access to the Appeal Site lies within Halloughton Conservation Area.

2.13 Southwell is situated to the north-east of the Appeal Site and contains a large Conservation Area and numerous Listed Buildings.

3. THE APPEAL PROPOSALS

3.1 The application which is the subject of this Appeal seeks Full Planning Permission for the following:

“Construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure.”

3.2 The planning application was given the reference 20/01242/FULM by the LPA.

Proposed Development

3.3 The application seeks Planning Permission for the construction of a solar farm and battery stations with a capacity of no more than 49.9MW for a temporary period of 40 years from the date of the first exportation of electricity from the site (with the exception of the DNO substation which will remain on the site permanently as it may become part of their transmission network beyond the lifespan of the solar farm).

3.4 The Site Selection Report sets out the Appellants site identification criteria and selection considerations for the development which explains the Appellants position as to why this site was selected.

Solar Arrays and Supporting Equipment

3.5 The Proposed Development consists of solar PV panels placed on metal arrays arranged in rows, allowing for boundary landscaping, perimeter fencing and access. The PV panels would be laid out in rows across the site in east-west orientation and face to the south at 20 degrees from the horizontal to maximise efficiency, with a maximum height of less than 3m. The arrays would be spaced to avoid any shadowing effect from one panel to another with topography dictating exact row spacing (which can range between approximately 4m and 6.5 metres). The arrangement of the solar PV panels themselves would either be 3 in portrait or 6 in landscape. Drawings detailing both orientations were submitted as part of the application (see drawing ‘Typical PV Table Details 3P Rev A’ and ‘Typical PV Table Details Rev A’). The maximum panel height tested in the LVIA was 3m, which is applicable to both options.

3.6 Plant and other equipment to support the generation of electricity is proposed around the Appeal Site, adjacent to internal tracks to ensure access can be

achieved for maintenance purposes. The tracks would have a width of 3.5m and would be constructed with crushed aggregate. The supporting equipment includes inverter stations, which would be positioned around the Appeal Site.

Battery Stations

- 3.7 The battery stations would be located throughout the Appeal Site. Each station would consist of containerised battery units/inverters, DC-DC converter boxes and ancillary equipment.

Cabling and Grid Connection

- 3.8 Underground cabling would be situated around the site connecting the Proposed Development to the proposed substation towards the south-eastern of the Appeal Site.

Perimeter Fencing and CCTV

- 3.9 It is proposed that a 2m high security deer fence would be installed around the edge of the Appeal Site. Mammal gates would be prescribed at various locations along the fencing to allow the passage of mammals across the Appeal Site.
- 3.10 In addition to fencing, it is proposed that 3m high pole mounted CCTV security cameras will be installed inside and around the Appeal Site.

Access

- 3.11 Access to the Proposed Development would be provided in the south-eastern corner of the site boundary (via a double width farm gate), from an adopted no through road which adjoins the A621. The proposed access would serve the entirety of the Appeal Site, through a network of internal site roads.
- 3.12 Following completion of construction, a double width farm gate would be installed at the access point which adjoins the public highway. The security gate would be setback from the public highway.
- 3.13 An existing Public Right of Way (PRoW) (Bridleway reference: BW74) runs broadly through the central portion of the Appeal Site in an east to west direction. The Bridleway commences at the north-eastern edge of Halloughton Wood and continues towards Southwell. Additionally, PRoW (Footpath reference: FP42) lies to the west of the northern half of the Appeal Site, adjacent to the western boundary where it joins PRoW (Footpath reference: FP43) which runs along the

northern Appeal Site. It is proposed to retain all of the PRow's in their existing locations.

Landscaping

- 3.14 No trees, tree groups or hedgerows are required for removal in their entirety to facilitate the Proposed Development. Partial removals are required at the site access, and along the access tracks within the Appeal Site, where no existing gaps could be utilised.
- 3.15 Where required, gaps in hedgerows will be repaired with native hedgerow species supplemented with native tree planting.
- 3.16 Landscaping mitigation and enhancement works are also proposed.
- 3.17 A biodiversity enhancement area has also been proposed to the west of the solar development site. This land currently forms an existing woodland.

Construction and Operation

- 3.18 Construction is expected to take place over approximately 6 months (up to 26 weeks).
- 3.19 Once installed, the solar farm would require infrequent visits for the purposes of maintenance or cleaning of the Appeal Site. Such work typically requires 10-20 visits per year. The Proposed Development would be unmanned, being remotely operated and monitored.

Decommissioning

- 3.20 At the end of the 40-year operational lifespan of the solar farm, the site would be restored back to full agricultural use with all equipment and below ground connections removed (with the exception of the DNO substation). However, the scheme's landscaping, once established, would remain. It is envisaged that the decommissioning of the solar farm would take approximately six months.

4. APPLICATION PLANS AND DOCUMENTS

4.1 The application plans and supporting documents that comprised the planning application at the time that the appeal was lodged, were as follows:-

Application Documents – Original Application: 7th July 2020

Covering Letter and Application Forms

1. Covering Letter, prepared by Pegasus Group, dated 7th July 2020; and
2. Application Forms, dated 7th July 2020.
3. Community Infrastructure Levy (CIL) – Form 1: CIL Additional Information.

Application Drawings

4. Site Location Plan, drawing reference: P18-2917_02 Sheet No: - Rev: D, prepared by Pegasus Group, dated 15th April 2020.
5. Indicative WPD and Customer Compound Layout, drawing reference: HLG-01-2001 Rev 01 Sheet 1 of 1, prepared by HVSS, dated 7th February 2020.
6. Indicative WPD and Customer Compound Elevations, drawing reference: HLG-01-2002 Rev 01 Sheet 1 of 1, prepared by HVSS, dated 7th February 2020.
7. Typical Fence, Track & CCTV Details, drawing reference: JBM-HALLOU-SD-02, prepared by Helioworks, dated 16th March 2020.
8. Typical Trench Section Details, drawing reference: JBM-HALLOU-SD-03, prepared by Helioworks, dated 16th March 2020.
9. Typical Inverter Substation Details, drawing reference: JBM-HALLOU-SD-04, prepared by Helioworks, dated 16th March 2020.
10. Typical Spares Container Details, drawing reference: JBM-HALLOU-SD-05, prepared by Helioworks, dated 16th March 2020.
11. Typical Battery Storage Systems Details, drawing reference: JBM-HALLOU-SD-06 Rev A, prepared by Helioworks, dated 22nd May 2020.
12. Typical Customer Switchgear Details, drawing reference: JBM-HALLOU-SD-07 Rev A, prepared by Helioworks, dated 21st May 2020.
13. Site Layout and Planting Proposal, drawing reference: P18-2917_12 Sheet No: _ Rev: H, prepared by Pegasus Group, dated 29th June 2020.
14. Typical PV Table Details (showing 3 in portrait orientation), drawing reference: Typical PV Table Details 3P Rev A, prepared by JBM Solar, dated 16th June 2020.
15. Typical PV Table Details (showing 6 in landscape orientation), drawing reference: Typical PV Table Details Rev A, prepared by JBM Solar, dated 16th June 2020.

Supporting Documents

16. Agricultural Land Classification Report, prepared by Davis Meade, dated 16th April 2019.
17. Arboricultural Impact Assessment, prepared by Barton Hyett Associates, dated 19th March 2020.
18. Construction Traffic Management Plan (CTMP), prepared by Pegasus Group, dated July 2020.
19. Design and Access Statement, prepared by Pegasus Group, dated July 2020.
20. Ecological Assessment Report, prepared by Avian Ecology, dated 9th July 2020 (including Biodiversity Metric Calculation, Biodiversity Management Plan, GCN eDNA Survey, Wintering Bird Survey and confidential Badger Report).
21. Flood Risk Assessment, prepared by Calibro, dated 2nd July 2020.
22. Geophysical Survey Report, prepared by Magnitude Surveys, dated July 2020.
23. Solar Photovoltaic Glint and Glare Study, prepared by Pager Power, dated 19th July 2020.
24. Heritage Assessment, prepared by Pegasus Group, dated July 2020.
25. Landscape and Visual Impact Assessment (LVIA), prepared by Pegasus Group, dated July 2020.
26. Noise Assessment, prepared by LF Acoustics, dated July 2020.
27. Planning Statement, prepared by Pegasus Group, dated July 2020.
28. Statement of Community Involvement, prepared by Pegasus Group, dated July 2020.

Application Documents – Post Submission: 18th December 2020

Application Drawings

29. Site Location Plan, drawing reference: P18-2917_02 Rev E, prepared by Pegasus Group dated 15th December 2020.
30. Site Layout and Planting Proposals, drawing reference: P18- 2917_12 Rev J, prepared by Pegasus Group, dated 10th December 2020.
31. Note addressing Site Access Arrangements, prepared by Pegasus Group, dated December 2020.
32. Tree Protection Plan – Highways Access, drawing reference: No. BHA_665_03, prepared by Barton Hyett Associates, dated 15th December 2020.
33. Swept Path Analysis: Proposed Site Access 15.4m Articulated Vehicle, drawing reference: P18-2917 FIGURE 2 Rev A, prepared by Pegasus Group, dated 15th December 2020.

Supporting Documents

34. Summary of Amendments Covering Letter, prepared by Pegasus Group, dated 18th December 2020.
35. LVIA Addendum, prepared by Pegasus Group, dated December 2020.
36. Report of an Archaeological Evaluation (reference: R14340), prepared by Pre-Construct Archaeology, dated December 2020.
37. Agricultural Land Classification Report, prepared by Amet Property, dated 27th November 2020.
38. Proposed Site Access Visibility Splays Plan, drawing reference: P18-2917 FIGURE 1 Rev A, prepared by Pegasus Group, dated 17th December 2020.

Application Documents – Post Submission: 21st December 2020

Supporting Documents

39. Winter Photomontages, prepared by Pegasus Group, dated December 2020.

Application Documents – Post Submission: 8th January 2021

Application Drawings

40. Site Location Plan, drawing reference: P18-2917_02 Rev E, prepared by Pegasus Group, dated 15th December 2020.
41. Site Layout and Planting Proposals, drawing reference: P18-2917 Rev K, prepared by Pegasus Group, dated 6th January 2021.

Supporting Documents

42. Covering Email outlining updated Plans, sent from James Walker to Honor Whitfield, dated 8th January 2021.

Application Documents – Post Submission: 22nd January 2021

Supporting Documents

43. Note on Additional Planting, prepared by Pegasus Group, dated 21st January 2021.
44. Site Selection Report, prepared by Pegasus Group, dated January 2021.

Application Documents – Post Submission: 3rd February 2021

Application Drawings

45. Site Layout and Planting Proposals, drawing reference: P18-2917 Rev L, prepared by Pegasus Group, dated 1st February 2021.

Supporting Documents

46. Covering Letter outlining the amendments to the Site Layout and Planting Proposals, prepared by Pegasus Group, dated 2nd February 2021.

Application Documents – Post Submission: 1st March 2021

Supporting Documents

47. Applicant Response to Committee Report, prepared by Pegasus Group, dated 26th February 2021.

48. Committee Leaflet, prepared by Pegasus Group, dated March 2021.

Application Documents – Post Determination: July 2021

49. Site Layout and Planting Proposals, drawing reference: P18-2917 Rev M, prepared by Pegasus Group, dated 29th June 2021

50. Indicative Landscape Site Section (Year 5 & 15), drawing reference: P18-2917_26 prepared by Pegasus Group, dated 1st July 2021

51. Covering Letter outlining the amendments to the Site Layout and Planting Proposals, prepared by Pegasus Group, dated 22nd July 2021.

5. BACKGROUND AND REASONS FOR REFUSAL

- 5.1 The planning application was validated by the LPA on the 10th July 2020.
- 5.2 Following the consultation procedures and negotiations during the consideration of the application, the planning application was reported to the Council's Planning Committee on the 2nd March 2021, with an Officer's recommendation for refusal.
- 5.3 Members resolved that the Planning Application should be refused, in accordance with the Officer's recommendation. The Decision Notice was issued on 4th March 2021 and included 1no. Reason for Refusal. This was as follows:

"01

In the opinion of the District Council the proposed development, by virtue of its sheer scale, siting and close proximity to Halloughton Conservation Area and designated heritage assets therein would have a long-term detrimental impact on the landscape character and visual amenity of the area. The proposal would result in a moderate adverse landscape impact on land cover and a major adverse scale of effects on the local landscape character (Mid Nottinghamshire Farmlands Policy Zones 37, 38 and 39) for the forty-year lifetime of the scheme. There would also be long-term visual impacts on well used public rights of way (PRoW Southwell 74 and PRoW Southwell 43) which would last at least until Year 10 of the development and likely longer. The proposal would also fail to conserve and enhance landscape character and visual amenity and therefore would be harmful to the character, appearance and visual perception of the area. The proposed development would also result in less than substantial harm on the setting and experience of Halloughton Conservation Area, as well as to the setting of listed buildings within the Conservation Area, notably the Church of St James (Grade II) and the Manor House (Grade II*) in addition to resulting in less than substantial harm to the setting of designated heritage assets within the Brackenhurst complex (Grade II) and South Hill House (Grade II). This level of harm would result in loss of significance to these designated heritage assets.

Although the proposal would undoubtedly bring meaningful environmental and economic benefits to the District, in the context of paragraph 196 of the NPPF and in the overall planning balance, these are not considered sufficient to outweigh the harm identified on the setting of the abovementioned designated heritage assets or the landscape character and visual amenity of the area by the sheer scale and siting of the proposal. The proposal would therefore be contrary to the objective of preservation required under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in conflict with the

development plan with particular reference to policies CP9, 10, 13, 14 of the Amended Core Strategy (2019), policies DM4, 5, 9 and 12 of the Allocations and Development Management DPD (2013) in addition to the provisions of the Southwell Neighbourhood Plan (2016), Landscape Character Assessment SPD (2013) and the NPPF (2019) when read as a whole.”

6. PLANNING HISTORY

6.1 The planning history of the site which is relevant to this Appeal is as follows:

- 19/SCR/00016 – Request for screening opinion for a proposed solar installation. On the 28th August 2019, the Council confirmed that the proposed development was not EIA Development.

7. PLANNING POLICY

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

The Development Plan

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

7.3 At the time of preparing this SoCG, the Statutory Development Plan covering the Appeal Site comprises:

- Newark and Sherwood Amended Core Strategy DPD (March 2019);
- Allocations and Development Management DPD (July 2013); and
- Southwell Neighbourhood Plan 2015-2026.

Newark and Sherwood Amended Core Strategy DPD (March 2019)

7.4 The Newark and Sherwood District Council Amended Core Strategy DPD was adopted in March 2019. The Amended Core Strategy DPD (March 2019) replaces the former Core Strategy document, which was first adopted in 2011, prior to the adoption of the National Planning Policy Framework (NPPF) in 2012.

7.5 The principal policies cited in the Committee Report and Decision Notice variously include:

- Spatial Policy 1: Settlement Hierarchy;
- Spatial Policy 2: Spatial Distribution of Growth;
- Spatial Policy 3: Rural Areas;
- Spatial Policy 6: Infrastructure for Growth;
- Spatial Policy 7: Sustainable Transport;
- Core Policy 9: Sustainable Design;
- Core Policy 10: Climate Change;
- Core Policy 12: Biodiversity and Green Infrastructure;

- Core Policy 13: Landscape Character; and
- Core Policy 14: Historic Environment.

Allocations and Development Management DPD (July 2013)

- 7.6 The Allocation and Development Management DPD allocates land to meet housing, retail and employment needs, whilst also amending boundaries, and setting out a suite of Development Management Policies to assist in the day-to-day assessment of planning applications.
- 7.7 The principal policies cited in the Committee Report and Decision Notice variously include:
- Policy DM4: Renewable and Low Carbon Energy Generation;
 - Policy DM5: Design;
 - Policy DM7: Biodiversity and Green Infrastructure;
 - Policy DM8: Development in Open Countryside;
 - Policy DM9: Protecting and Enhancing the Historic Environment; and
 - Policy DM12: Presumption in Favour of Sustainable Development.

Southwell Neighbourhood Plan 2015-2026

- 7.8 The Southwell Neighbourhood Plan was made on 11th October 2016.
- 7.9 The policies discussed in the Committee Report variously include:
- Policy SD1: Delivering Sustainable Development;
 - Policy E1: Flood Risk Assessments and Mitigation;
 - Policy E2: Flood Resilient Design;
 - Policy E3: Green Infrastructure and Biodiversity;
 - Policy E4: Public Rights of Way;
 - Policy E6: Climate Change and Carbon Emissions;
 - Policy DH1: Sense of Place;
 - Policy DH3: Historic Environment; and
 - Policy TA3: Highways Impact.

National Guidance

National Planning Policy Framework (July 2021)

- 7.10 The NPPF will be a material consideration in the determination of the appeal. Both parties will make reference to the NPPF in support of their case. Both parties acknowledge that the NPPF has been revised since the determination of the Appeal Scheme.

National Planning Practice Guidance (March 2014, as amended)

- 7.11 The NPPG is a material consideration in the determination of the appeal.

Overarching National Policy Statement for Energy (EN-1) (July 2011)

- 7.12 EN-1 is a material consideration in the determination of the appeal. Since the Appeal was submitted, a draft National Policy Statement for Energy (EN-1) was published by the Government in September 2021. This is also a material consideration in the determination of the Appeal.

National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)

- 7.13 EN-3 is a material consideration in the determination of the appeal. Since the Appeal was submitted, a draft National Policy Statement for Renewable Energy Infrastructure (EN-3) was published by the Government in September 2021. This is also a material consideration in the determination of the Appeal.

Landscape Character Assessment SPD (Adopted December 2013)

- 7.14 The Landscape Character Assessment is a material consideration in the determination of the appeal.

UK Government Solar Strategy 2014

- 7.15 The UK Government Solar Strategy is a material consideration in the determination of the appeal.

Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25 March 2015

- 7.16 The Written Ministerial Statement is a material consideration in the determination of the appeal.

Commercial Renewable Energy Development and the Historic Environment
Historic England Advice Note 15 (February 2021)

- 7.17 The Commercial Renewable Energy Development and the Historic Environmental Historic England Advice Note 15 is a material consideration in the determination of the appeal.

Planning (Listed Buildings and Conservation Areas) Act 1990

- 7.18 The Planning (Listed Buildings and Conservation Areas) Act 1990 is a material consideration in the determination of the appeal.

Managing Significance in Decision-Taking in the Historic Environment Historic
England Good Practice Advice in Planning 2 (March 2015)

- 7.19 The Historic England Good Practice Advice Note is a material consideration in the determination of the appeal.

The Setting of Heritage Assets Historic England Good Practice Advice in Planning
3 (December 2017)

- 7.20 The Historic England Good Practice Advice Note is a material consideration in the determination of the appeal.

8. MATTERS NOT IN DISPUTE

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

Format of Planning Application and Supporting Material

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

Environmental Impact Assessment

8.3 It is agreed that during the course of the Planning Application the proposal was not considered to constitute EIA Development having regard to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. As such, an Environmental Statement was not required to inform the planning application for the Proposed Development.

8.4 Subsequent to the CMC, on 9th November 2021 the Secretary of State confirmed through a Screening Direction that an Environmental Impact Assessment was required and, at the time of finalising Proofs of Evidence, the Appellant agreed to prepare an Environmental Statement (*Core Document C12*).

Settlement Boundary

8.5 Both parties acknowledge that the site is located outside of any defined Settlement Boundary and is therefore in the open countryside in planning terms.

8.6 Both parties acknowledge that no land is specifically allocated for the generation of renewable energy in the adopted Development Plan, and both parties acknowledge that developments of this nature could be acceptable in principle in the open countryside. Both parties also acknowledge that in assessing applications of this nature, it is necessary to balance the strong policy presumption in favour of applications for renewable technologies against the site-specific impacts.

Need for Renewable Energy

8.7 It is agreed that there is no requirement for the Applicant to demonstrate a need for renewable energy, as confirmed by Paragraph 158 of the NPPF.

- 8.8 It is agreed that the Proposed Development would constitute a low carbon, renewable energy source that would contribute towards meeting national renewable energy targets.
- 8.9 Both parties acknowledge that the Proposed Development would provide approximately 49.9MW of electricity, which is equivalent to approximately the annual needs of 12,000 UK homes.
- 8.10 It is agreed that there is a substantial benefit of the scheme in terms of renewable energy production and that significant weight should be attached to this material consideration.
- 8.11 It is agreed that the Overarching National Policy Statement for Energy (EN-1) is a material consideration in the determination of this appeal. Both parties agree that this statement explains how the energy sector can help deliver the Government's climate change objectives by clearly setting out the need for new low carbon energy infrastructure to contribute to climate change mitigation.
- 8.12 Both parties acknowledge that Core Policy 10 establishes the Council's commitment to tackling the causes and impacts of climate change and to delivering a reduction in the Districts carbon footprint.
- 8.13 Both parties acknowledge that Policy DM4 (and reflected in Policy E6) outlines that permission would be granted for renewable energy generation schemes where its benefits are not outweighed by its detrimental impacts.

Agricultural Land

- 8.14 Both parties acknowledge that the revised Agricultural Land Classification Report (November 2020) confirms that the Appeal Site comprises 98 ha of Grade 3b Agricultural Land.
- 8.15 It is agreed that the Proposed Development would not prejudice the use of Best and Most Versatile agricultural land.
- 8.16 It is agreed that the Appeal Site would be subject to continued agricultural use during the operational period of the solar farm, in the form of sheep grazing between the panels.

- 8.17 It is agreed that the Proposed Development would be time limited for a period of 40 years from the date of first exportation of electricity to the grid, and therefore would not result in a permanent loss of agricultural resource (with the exception of the land take associated with retaining the Substation).
- 8.18 It is agreed that there will only be a limited permanent loss of agricultural land through the permanent retention of the substation.

Site Selection

- 8.19 It is agreed that the location of the site is in close proximity to a suitable grid connection point (by way of the overhead 132kV line which allows for on-site/infield connections).
- 8.20 It is agreed that there are no suitable alternative brownfield sites to accommodate the scale of the Proposed Development with access to this same connection point.

Highways and Access

- 8.21 It is agreed that access to the Proposed Development would be provided in the south-eastern corner of the site boundary (via a double width farm gate), from an adopted no through road which adjoins the A621.
- 8.22 It is agreed that Newark and Sherwood Council approved an application for the removal of the mature Poplar Tree adjacent to the proposed access (application reference: 20/02428/TWCA). Both parties acknowledge that the tree has now been removed.
- 8.23 It is agreed that the Highways Authority confirmed that the amended access position assisted in protecting the watercourse and improving vehicle swept paths, and as such raised no objection to the Proposed Development (subject to conditions).

Construction Traffic

- 8.24 It is agreed that the construction phase could typically generate up to 12 HGV movements per day, over a period of approximately 6 months (up to 26 weeks).
- 8.25 It is agreed that as the construction progresses, the number of deliveries decrease.

Operational Traffic

- 8.26 It is agreed that once the Proposed Development is installed, the solar farm would require 10-20 visits per year for the purposes of maintenance and cleaning.
- 8.27 It is agreed that the Highways Authority raised no objection to the Proposed Development, subject to conditions relating to the treatment of the access and provision of a vehicular crossing of the highway footway and verge.
- 8.28 It is agreed that the Proposed Development will not give rise to a detrimental impact on highway safety in accordance with Spatial Policy 7 and Policy DM5 of the adopted Development Plan.

Public Rights of Way

- 8.29 It is agreed that VIA Rights of Way raised no objection to the Proposed Development in terms of physical impacts on the alignment of Public Rights of Way.

Flood Risk

- 8.30 Both parties acknowledge that the Appeal Site is located within Flood Zone 1 and is therefore at low risk of flooding.
- 8.31 It is agreed that, as the site is situated within Flood Zone 1, the Appeal Site passes the NPPF Sequential Test and does not require the Exception Test to be conducted.
- 8.32 Both parties acknowledge that the Environment Agency and Nottinghamshire County Council Lead Local Flood Authority raised no objection to the Proposed Development, subject to the imposition of a condition requiring the provision of a detailed drainage scheme in accordance with the principles established in the Flood Risk Assessment.
- 8.33 It is agreed that the Proposed Development will not adversely impact on flooding or drainage, in accordance with the aims of Core Policies 9 and 10, Policy DM5, and Policies E1 and E2 of the adopted Development Plan and the NPPF.

Archaeology

- 8.34 Both parties acknowledge that the Archaeology Officer raises no objection to the Proposed Development, subject to conditions.
- 8.35 It is agreed that a condition would be imposed on the planning consent requiring further archaeological excavations.
- 8.36 It is agreed that on the basis of the results of the archaeological fieldwork undertaken to date, the Archaeological Officer has raised no objection to the proposal subject to conditions. On this basis the proposal is not considered to result in any adverse impact upon archaeological remains in accordance with Policies CP14 and DM9 of the adopted Development Plan.

Ecology

- 8.37 Both parties acknowledge that Natural England have raised no objection as the Proposed Development will not give rise to any significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 8.38 Both parties acknowledge that Nottinghamshire Wildlife Trust (NWT) raised no objection to the Proposed Development, subject to the implementation of all recommended mitigation (by way of a condition). It is agreed that NWT concluded that there would be no detrimental impact to the wildlife and habitats on the Appeal Site.
- 8.39 It is agreed that through the creation of habitats, the Proposed Development will provide an overall Biodiversity Net Gain of 36.78% in habitat units (23.68% net gain in hedgerow units). This will be secured through landscape planting, habitat enhancements and long-term management, and is a benefit that weighs in favour of the scheme.
- 8.40 In respect of ecology, it is agreed that the Proposed Development complies with the aims of Core Policy 12 and Policy DM5 of the adopted Development Plan, the provisions in the adopted Neighbourhood Plan and the NPPF.

Arboriculture

- 8.41 Both parties acknowledge that the Tree Officer raised no objection to the Proposed Development, subject to the imposition of conditions including requiring tree/hedgerow protection measures.

- 8.42 It is agreed that the Tree Constraints Plan indicated that the Proposed Development can be achieved with minimal loss of existing green infrastructure.
- 8.43 It is agreed that no trees, tree groups or hedgerows will require removal in their entirety. It is agreed that sectional hedgerow removals (approximately 4-5m) will be required to facilitate the new access track through the site, whilst allowing access through the site. It is agreed that minor sections of 1m of hedgerow will require removal to install the perimeter fence.
- 8.44 Both parties acknowledge that the Biodiversity Management Plan demonstrates how a net gain in terms of tree and hedgerow planting can be secured on the site.
- 8.45 It is agreed that the Proposed Development complies with the aims of Core Policy 12 and Policy DM5 of the adopted Development Plan, the provisions in the adopted Neighbourhood Plan and the NPPF in respect of arboricultural impact.

Amenity

Noise

- 8.46 Both parties acknowledge that the Environmental Health Officer raised no objection to the Proposed Development, subject to the provision of a Noise Attenuation Scheme and a suitably worded condition based on BS4142.
- 8.47 It is agreed that the Proposed Development will give rise to a slight hum during operation, but this would be contained within the Appeal Site boundary.
- 8.48 It is agreed that the Proposed Development will not have a significant adverse amenity impact on neighbouring land uses and therefore accords with Policy DM5 of the adopted Development Plan and the NPPF in respect of amenity impact.

Temporary Consent

- 8.49 It is agreed that a 40-year temporary consent (with the exception of the DNO substation which will remain on the Appeal Site permanently) is sought from the date of the first exportation of electricity to the electrical grid.

Planting Undertaken

8.50 Both parties acknowledge that additional planting has been undertaken at Manor Farm and within the Appeal Site (as identified on the Screening and Shelterbelt Planting Plan dated 11/06/20 submitted in the Note on Additional Planting Letter ref. P18-2917 dated 21/01/21) in January 2021.

Landscape and Visual Effects

Visual Effect

8.51 It is agreed that the proposed development would result in some adverse visual effects during the Construction Stage, Year 1 and Year 10 of the development.

Heritage

8.52 It is agreed that the proposed development would result in less than substantial harm on the setting of Halloughton Conservation Area.

Alternative Plans

8.53 The Appellant and the Council have no objection to the inquiry proceeding based on the amended plans submitted at the time the appeal was submitted. These plans are P18-2917_12 Rev M Site Layout and Planting Proposal and P18-2917_26 Indicative landscape Site Section (Year 5 & 15).

9. MATTERS THAT REMAIN IN DISPUTE

9.1 The issues that remain in dispute between the Appellant and Newark and Sherwood District Council can be narrowed down to the following:

Landscape Character and Visual Effect

Landscape Effect

- 9.1.1 The scale, duration and impact of the identified effects on Land Cover as a result of the proposed development.
- 9.1.2 The scale, duration and impact of the identified effects on Landscape Character as a result of the proposed development.
- 9.1.3 Whether the landscape effects identified as arising from the development would have long-term detrimental impacts on the character and visual perception of the area.

Visual Impacts

- 9.2 The scale of visual effects as a result of the development and the consequential impact on Public Rights of Way (as identified at para. 2.5).
- 9.3 Whether the visual effects identified as arising from the development would have long-term detrimental impacts on the visual amenity of the area and the Public Rights of Way.
- 9.4 Not used.
- 9.5 Not used.

Heritage Impact

Halloughton Conservation Area

- 9.6 The scale of 'less than substantial harm' the Proposed Development would have on the setting and experience of Halloughton Conservation Area.

Impact of the Development on the Halloughton Conservation Area

| | Scale of Harm |
|------------------|---|
| Appellant | Less than substantial harm, at the lower end of the scale |
| Council | Less than substantial harm, at the upper end of the scale |

Listed Buildings within Halloughton Conservation Area

9.7 Whether the Proposed Development would result in less than substantial harm to the setting of the listed buildings within Halloughton Conservation Area (Grade II* and II Listed, as identified in para. 2.10).

| Impact of the Development on the Listed Buildings within Halloughton Conservation Area | |
|---|--|
| | Scale of Harm |
| Appellant | No harm |
| Council | <p>Less than substantial harm at the upper end of the scale for:</p> <ul style="list-style-type: none"> Halloughton Manor Farmhouse (Grade II*, List ID: 1178664) Church of St James (Grade II, List ID: 1045555) Barn at Bridle Road Farm (Grade II, List ID: 1178708) <p>Less than substantial harm at the lower end of the scale for:</p> <ul style="list-style-type: none"> Pigeoncote, Granary and Stable Block at Manor Farm (Grade II, List ID: 1370180) Barn at Halloughton Manor Farm (Grade II, List ID: 1045556) |

Listed Buildings within the Brakenhurst complex and South Hill House

9.8 Whether the Proposed Development would result in less than substantial harm to the setting of the listed buildings within the Brackenhurst complex (Grade II Listed) and South Hill House (Grade II Listed) (as identified in para. 2.9).

| Impact of the Development on the Listed Buildings to the east of the site (within the Brakenhurst complex and South Hill House) |
|--|
|--|

| | Scale of Harm |
|------------------|--|
| Appellant | No harm |
| Council | Less than substantial harm, at the lower end of the scale. |

Downstream Flood Risk

9.9 Whether the Appellant has evidenced that the concept Drainage Strategy for the Proposed Development would definitively result in net betterment in terms of downstream flood risk and the extent of this betterment.

Planning Balance

9.10 Whether the identified benefits of the Proposed Development are sufficient to outweigh the identified harms.

10. PLANNING CONDITIONS

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

11. CORE DOCUMENTS

11.1 The Appellant and Council will jointly prepare a list of core documents upon which they intend to rely at the public inquiry.