

# **PLANNING PROOF OF EVIDENCE**

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

### **ON BEHALF OF JBM SOLAR PROJECTS 6 LTD**

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

**Prepared by: Paul Burrell, BSc (Soc Sci) Hons, DipUP, MRTPI**

#### **PROPOSAL:**

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

## **Pegasus Group**

Pegasus House | Querns Business Centre | Whitworth Road | Cirencester | Gloucestershire | GL7 1RT

**T** 01285 641717 | **F** 01285 642348 | **W** [www.pegasusgroup.co.uk](http://www.pegasusgroup.co.uk)

Birmingham | Bracknell | Bristol | Cambridge | Cirencester | East Midlands | Leeds | Liverpool | London | Manchester | Newcastle | Peterborough

**DESIGN** | **ENVIRONMENT** | **PLANNING** | **ECONOMICS** | **HERITAGE**

©Copyright Pegasus Planning Group Limited 2011. The contents of this document must not be copied or reproduced in whole or in part without the written consent of Pegasus Planning Group Limited

## CONTENTS:

Page No:

1.	PERSONAL BACKGROUND	1
2.	INTRODUCTION	2
3.	THE APPEAL SITE AND ITS SURROUNDINGS	4
4.	THE APPEAL PROPOSALS	5
5.	PLANNING HISTORY	6
6.	PLANNING POLICY	7
	The Development Plan	7
7.	CASE FOR THE APPELLANT	10
	Issue 1	11
	Issue 2	13
8.	PLANNING POLICY ASSESSMENT	14
	Newark and Sherwood Amended Core Strategy DPD (March 2019)	14
	Core Policy 9	14
	Core Policy 10	16
	Core Policy 13	17
	Core Policy 14	17
	Allocations and Development Management DPD (July 2013)	18
	Policy DM4	19
	Policy DM5	22
	Policy DM9	23
	Policy DM12	24
	Southwell Neighbourhood Plan	24
	Planning Policy Conclusions	26
9.	OTHER MATERIAL CONSIDERATIONS	28
	Energy Policy Considerations	28
	UK Legislation and Policy	28
	Progress	30
	Summary	32
	National Policy Statements on Energy & Renewable Energy	33
	Appeal Decisions	37
10.	THIRD PARTY REPRESENTATIONS	40
	Effect on Heritage and Archaeology	40
	Suitability of the Location and Effect on Agricultural Land	40
	Effect on hydrology and flood risk	41
	Effect on landscape	42
	Effect on public rights of way	42
	Effect on amenity and noise	42
	Effect on ecology	43
	Effect of construction on highway safety	43
11.	THE OVERALL PLANNING BALANCE, SUMMARY AND CONCLUSIONS	45
	The Decision-Making Framework	45

Material Considerations and Weight	45
Material Considerations which are Benefits	46
Other Considerations which are Neutral	49
Material Considerations which are Adverse	50
Overall Planning Balance	51
Overall Conclusion	51
12. PLANNING CONDITIONS	53

**1. PERSONAL BACKGROUND**

- 1.1 My name is Paul Burrell. I hold a BSC (Soc Sci) Hons in Geography and 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.
- 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.
- 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 JBM Solar Projects 6 Ltd ('The Appellant') and relates to a planning appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990, concerning land North of Halloughton, Southwell, Nottinghamshire ('The Appeal Site').

2.2 The appeal follows the decision of Newark and Sherwood District Council ('The LPA') to refuse an application for full planning permission (LPA ref: 20/01242/FUL) for a Proposed Development comprising the following:

**"Construction a solar farm and battery stations together with all associated works, equipment and necessary infrastructure."**

2.3 The refusal of the application was confirmed in the decision notice dated 4<sup>th</sup> March 2021 (*Core Document A45*) which set out one Reason for Refusal, worded 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.”**

- 2.4 My Planning Proof of Evidence addresses the Planning Policy matters raised in the reasons for refusal as well as the overall planning balances.
- 2.5 A draft Statement of Common Ground has been largely agreed with the Council and I therefore rely on the provisional 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 Statement of Common Ground (*Core Document C4, Section 2*).

#### **4. THE APPEAL PROPOSALS**

- 4.1 A detailed description of the Proposed Development and confirmation of the plans and documents on which the LPA's decision was made are contained in the SoCG (*Core Document C4, Sections 3 and 4*).
- 4.2 I note that at the Case Management Conference held with the Inspector on 22<sup>nd</sup> October 2021, the Council confirmed they had no objection to the Inquiry proceeding on the basis of the revised layout plans submitted (P18-2917\_12 Rev M Site layout and Planting Proposal and P18-2917\_26 Indicative landscape Site Section (Year 5 & 15)).
- 4.3 Subsequent to the CMC, on 9<sup>th</sup> November 2021 the Secretary of State confirmed through a Screening Direction that an Environmental Impact Assessment was required and, at the time of finalising my Proof of Evidence, an Environmental Statement is being prepared by the Appellant accordingly (*Core Document C12*).

## **5. PLANNING HISTORY**

- 5.1 There are no previous planning applications on the Appeal Site.
- 5.2 The relevant planning history therefore relates only to the Screening Opinion request pursuant to the Proposed Development (*Core Document C4, paragraph 6.1*).

## 6. PLANNING POLICY

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

### The Development Plan

6.2 The Statutory Development Plan applying in respect of 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 (October 2016).

### Newark and Sherwood Amended Core Strategy DPD (March 2019)

6.3 The Newark and Sherwood District Council Amended Core Strategy DPD was adopted in March 2019.

6.4 The principal policies cited in the Committee Report and Decision Notice variously are listed below. Those in **bold type** are those referenced within the LPA's Reason for Refusal and, accordingly, I consider it is compliance with these Policies that is disputed. It is therefore also taken that the LPA considers the Policies listed below which area not referenced in the LPA's Reason for Refusal as being complied with.:

- 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)

6.5 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.

6.6 The principal policies cited in the Committee Report and Decision Notice are listed below, using the same convention of highlighting those policies in **bold type** which are referenced in the Reason for Refusal:

- **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

6.7 The Southwell Neighbourhood Plan was made in October 2016.

6.8 Although the Reason for Refusal neglected to cite any specific policies, instead preferring to rely on a general premise of '*... the provisions of the Southwell Neighbourhood Plan...*', the Neighbourhood Plan 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**

6.9 Since the Proposed Development was refused permission by the LPA, I note that the NPPF was revised. I consider the following are important material considerations:

- National Planning Practice Guidance
- Overarching National Policy Statement for Energy (EN-1) (July 2011)
- National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)
- Landscape Character Assessment SPD (adopted December 2013)
- UK Government Solar Strategy 2014
- Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25 March 2015
- Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021)

## 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.

7.2 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

7.3 The LPA's Reason for Refusal can be split into three considerations:

- i. The alleged harm caused by the Proposed Development on the local landscape land cover and character, and visual impacts on two Public Rights of Way, Southwell 74 and Southwell 43.
- ii. The alleged harm caused by the Proposed Development to the setting and experience of the Halloughton Conservation Area, and to the setting of the Church of St James (Grade II), the Manor House (Grade II\*), the Brackenhurst complex (Grade II) and South Hill House (Grade II).
- iii. The environmental and economic public benefits of the scheme are alleged to not be sufficient to outweigh the alleged harm to the setting of the heritage assets, nor alleged harm to the landscape character and visual amenity of the area.

7.4 The LPA therefore asserts that the Proposed Development conflicts with 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); and more generally to the provisions of the Southwell Neighbourhood Plan (2016), Landscape Character Assessment SPD (2013) and the NPPF (2019) when read as a whole.

## Main Issues

7.5 In my opinion, the main issues for the appeal, in summary, are therefore as follows:-

**Issue 1** What impact the Proposed Development would have on the landscape character and visual amenity of the area;

**Issue 2** What level of harm if any would occur as a result of the impact of the Proposed Development on nearby designated heritage assets, and whether any harm would be outweighed by the public benefits of the appeal; and

**Issue 3** Whether the scheme accords with the development plan, and if not, whether the benefits of the Proposed Development, and any other material considerations are sufficient to outweigh any conflict in respect of the development plan arising from Issues 1 and 2 identified above.

7.6 Whether the public benefits outweigh the alleged harm is a matter which is considered throughout my Evidence.

### Issue 1

7.7 The Inspector should refer to the Appellant's Landscape Proof of Evidence prepared by Mr Cook which deals with this substantive issue. What follows is a brief summary of that evidence.

7.8 In summary, Mr Cook concludes that on landscape and visual grounds, there are no substantive reasons for refusing planning permission for the Proposed Development. I particularly note from his conclusions that:

- In terms of the Halloughton Conservation Area, there would be very limited opportunity to appreciate the scale of the Proposed Development, or to appreciate or be aware of the solar farm's presence from the context of the Conservation Area;
- Most of the existing landscape elements, vegetation, trees, hedges would continue to remain and be reinforced. Further the new hedgerow and tree planting would remain after decommissioning as a positive legacy of the scheme in the long term. There would be no material change to the physical fabric of the landscape character of the area beyond the site;

- The introduction of the solar farm would have a major adverse degree of effect with regard to land cover associated with the site;
- The Appeal Site lies at the confluence of three local Landscape Character Areas, and as such is an area of transition between these character areas. Only a fraction of these zones would physically change in terms of their character as the landscape beyond the site would remain unchanged;
- The actual visual envelope and the degree to which the Proposed Development would be seen from the surrounding area would be very limited and the scheme's effect upon visual amenity of the area would be very limited in degree and very localised in extent;
- The visual amenity along the majority of PRoW Southwell 74 would not be materially affected and the rural character and context of this route would continue to remain and prevail with the Proposed Development in place;
- In respect of PRoW Southwell 43, whilst there would be some visibility of adjacent arrays, this would only relate to the length of one field along this path and whilst a substantial visual adverse effect, would be geographically very limited, only to the length of this path in this field;
- Beyond the environs of the site the landscape character of the area would remain materially unchanged. The underlying character of the fields would remain with the solar arrays in place and would fully return with the decommissioning of the solar farm in the longer term. The new hedgerow, tree planting, and wildflower meadows would remain after decommissioning as a positive legacy and bring about enhancement to landscape character in the long-term.
- The extent to which the Proposed Development would be visible from the surrounding area would be very limited and local to the site. Where visible only small elements of the scheme would be visually evident with no opportunity to experience the full extent of the proposal from any one location.
- The local area and the Trent Vale a strong association with energy infrastructure and forms an integral part of the visual perception of the area.

- 7.9 I agree with what Mr Cook says and I rely upon this evidence.
- 7.10 I explain how this should inform the assessment of compliance with planning policy in Chapter 8 of this Statement and the Overall Planning Balance in Chapter 11 of this Evidence.

## **Issue 2**

- 7.11 The Inspector should refer to the Appellant's Heritage Proof of Evidence prepared by Ms Garcia which deals with this substantive issue. What follows is only a brief summary of that evidence.
- 7.12 In summary, Ms Garcia concludes that as a result of the thorough examination of the heritage assets cited in the reason for refusal, only a very small amount of harm to one asset (the Halloughton Conservation Area) has been identified and that this is less than substantial at the lowermost end of the spectrum. No harm has been identified to the other heritage assets identified.
- 7.13 I further note Ms Garcia's view that the proposed development may result in a small amount, less than substantial at the lower most end of the spectrum for the Halloughton Conservation Area but that this would be removed following the decommissioning of the scheme after 40 years.
- 7.14 I agree with what Ms Garcia says and I rely upon this evidence.
- 7.15 This very small amount of harm identified by Ms Garcia is not contrary to policy, but rather should be weighed against the public benefits of the proposed scheme. I further explain how this should inform the assessment of compliance with planning policy in Chapter 8 of this Statement and the Overall Planning Balance in Chapter 11 of this Evidence, which includes a balance of the heritage harm against public benefits as required by the NPPF and in the Overall Planning Balance.

## 8. PLANNING POLICY ASSESSMENT

8.1 In this section I will consider compliance with the relevant policies contained in the Development Plan as referenced in the LPA's Reason for Refusal.

### **Newark and Sherwood Amended Core Strategy DPD (March 2019)**

8.2 The policies referred to in the Reason for Refusal are:

- Core Policy 9: Sustainable Design;
- Core Policy 10: Climate Change;
- Core Policy 13: Landscape Character; and
- Core Policy 14: Historic Environment.

### **Core Policy 9**

8.3 My reading of the relevance of **Core Policy 9** on “Sustainable Development” to the Proposed Development principally lies in application of the first and second bullet point requirements of the policy.

### **Core Policy 9, Bullet Point 1 - Scale of Renewable Energy Development, Design and Layout**

8.4 I note that **Core Policy 9** expects that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context, complementing the existing built and landscape environments.

8.5 The Proposed Development is a renewable energy development of commercial scale and I am of the opinion that the Proposed Development is appropriately designed and sited. The design elements of the solar farm with supporting equipment are led by functional requirements, but I note the Design & Access Statement explains that all equipment, with exception of some elements of the substation, will be no more than 3m in height to limit its visibility from outside of the Appeal Site (*Core Document A7*) and that all buildings are designed to be as small as possible to undertake their required function.

8.6 I refer to Mr Cook's Evidence to consider this matter in respect of landscape effects and the extent to which the Proposed Development respects the existing landscape environment. As set out in the conclusions of Mr Cook's Evidence which

I have summarised earlier in my Evidence, the Proposed Development would not result in unacceptable impacts on landscape character or on visual amenity.

8.7 Given that this is a rural location, there are no material effects identified on the built environment, other than the less than substantial harm to the setting of the Halloughton Conservation Area. Ms Garcia in her Evidence concludes that this limited harm to the Halloughton Conservation Area was considered to be very small, at the lowermost end of the less than substantial harm spectrum due to the limited intervisibility and co visibility of the site with the asset. Further, Ms Garcia concludes that this level of harm would also be removed entirely following the decommissioning of the scheme following the 40 year time limit, as secured by planning condition, restoring the site to its baseline condition with the exception of the sub-station and mitigation planting which in itself is not harmful and would bring ecological benefits.

8.8 I therefore conclude the Proposed Development complies with the first bullet point of **Core Policy 9**.

Core Policy 9, Bullet Point 2 – managing surface water

8.9 **Core Policy 9** also expects that new development should through its design, proactively manage surface water, including, where feasible the use of Sustainable Drainage Systems (SuDS).

8.10 It is common ground with the LPA (*Core Document C4 - paragraphs 8.30-8.33*) the Proposed Development will not adversely impact on flooding or drainage in accordance with the aims of Core Policy 9, and that no objection was raised by the Environment Agency nor the Nottinghamshire County Council Lead Local Flood Authority. Further, I am of the opinion that betterment to flood risk would result from the Proposed Development for the reasons I set out in Section 11 of my Evidence.

8.11 I therefore consider the Proposed Development complies with the second bullet point of **Core Policy 9**.

Other Core Policy 9 Bullet Points

8.12 The fourth bullet point expects an effective and efficient use of land that optimises site potential at a level suitable to local character. In my opinion, the Proposed Development by virtue of the proposed site layout make a full and

efficient use of land maximising site coverage within the constraints of maintaining local character.

- 8.13 The sixth bullet point expects development to be provided that proves to be resilient in the long term. Given the imperative for low carbon energy generation to address wider climate change, the Proposed Development would directly assist in fulfilling this objective, whilst being resilient to the effects of climate change itself by reason of its siting and management of surface water run-off.

#### Core Policy 9 Conclusions

- 8.14 Having regard to the above considerations, I am of the opinion that the Proposed Development complies with **Core Policy 9**.

#### Core Policy 10

- 8.15 I note that **Core Policy 10** on 'Climate Change' expresses the commitment of the LPA to reducing the District's carbon footprint, and the Proposed Development will assist in this reduction by providing electricity equivalent to the average electrical needs of 12,000 typical UK homes annually, and would result in significant reductions in carbon dioxide emissions during its proposed lifetime of approximately 20,690t of CO<sub>2</sub> per annum.

#### Core Policy 10, First Bullet Point, Satisfactorily Address Adverse Impacts

- 8.16 The first bullet point of the policy sets a positive framework of support where it is able to demonstrate that its adverse impacts have been satisfactorily addressed. Having regard to the Evidence of Mr Cook on landscape, and Ms Garcia on heritage, and all other material considerations which have been appraised by the LPA in their Committee report and which I address later in my Evidence, I conclude that the adverse impacts have been satisfactorily addressed and the policy requirement fulfilled. Further, I also conclude later in my Evidence that the requirements of **Policy DM4** have likewise been met.

#### Core Policy 10, Forth-Sixth Bullet Points, Flood Risk & Drainage

- 8.17 For the reasons already set out in assessing compliance with **Core Policy 9** earlier in my Evidence with regard to surface water and drainage and, noting further that the site is in the lowest category of flood risk within Flood Zone 1 (and so neither a sequential test nor exceptions test is appropriate), I am of the opinion that these requirements are met. I again also draw attention to the

Statement of Common Ground in respect of agreement of flood risk matters  
(*Core Document C4 - paragraphs 8.30-8.33*).

#### Core Policy 10 Conclusions

- 8.18 Given the above considerations, I consider that the Proposed Development should derive positive support from the application of **Core Policy 10**.
- 8.19 I therefore consider the Proposed Development complies with **Core Policy 10**.

#### Core Policy 13

- 8.20 **Core Policy 13** on 'Landscape Character' seeks to secure the protection and enhancement on the relevant landscape character zones.
- 8.21 Mr Cook in his Evidence considers the landscape character and the potential effect of the Proposed Development which I have summarised earlier in my evidence<sup>1</sup>. Given Mr Cook's conclusions, which in summary is that the character of a few field parcels within the site would inevitably change in terms of their landscape character with the solar farm in place, but that the character of the landscape beyond the immediate environs of the site would remain unchanged and that only a fraction of these landscape character zones would physically change in terms of their character, I consider that the **Core Policy 13** is complied with.

#### Core Policy 13 Conclusions

- 8.22 Having regard to the above considerations, I am of the opinion that the Proposed Development complies with **Core Policy 13**.

#### Core Policy 14

- 8.23 **Core Policy 14** on 'Historic Environment' seeks the conservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment.
- 8.24 Ms Garcia in her Evidence considers the effect of the Proposed Development on the character, appearance and setting of the District's heritage assets and historic environment and concludes that there will be less than substantial harm at the lowermost end of the spectrum in respect of the setting of the Halloughton

---

<sup>1</sup> See my Evidence, paragraph 7.8

Conservation Area and that there will be that there will be no harm to the heritage significance of any other designated heritage assets.

- 8.25 In accordance with the approach set out in paragraph 196 of the NPPF in circumstances of less than substantial harm being identified to heritage assets, and having regard to the duty as Section 66 of the Town and Country Planning (Listed Buildings and Conservations Areas) Act 1990, I am of the opinion that this level of less than substantial harm, which Ms Garcia identifies lies at the lowest end of the spectrum, is more than outweighed by the public benefits<sup>2</sup> arising from (1) the generation of renewable energy and the significant saving in carbon dioxide that would result, (2) the net gain in biodiversity, (3) a betterment in downstream offsite flood risk (4) the socio-economic benefits arising from the capital investment, construction jobs and operational maintenance and business rates contribution for the duration of the Proposed Development.
- 8.26 For the reasons identified earlier in my evidence<sup>3</sup>, I further note that this level of harm would also be removed entirely following the decommissioning of the scheme following the 40 year time limit, and that the time-limited temporary nature of the development should be considered when considering the impacts of any indirect effect on the historic environment in the Draft NPS EN-3, which I discuss in more detail in Section 9 of my Evidence.
- 8.27 The less than substantial harm identified also needs to be weighed in the overall planning balance, which I undertake in Section 11 of my Evidence.

#### Core Policy 14 Conclusions

- 8.28 Having regard to the above considerations, I am of the opinion that the Proposed Development complies with **Core Policy 14** because where there is conflict identified by reason of less than substantial harm to the setting of the Conservation Area, this is a consideration that is weighed in the overall planning balance. I am of the opinion that this very small amount of harm is outweighed by the public benefits in this case.

#### **Allocations and Development Management DPD (July 2013)**

- 8.29 The policies referred to in the Reason for Refusal are:

---

<sup>2</sup> Refer to Section 11 of my evidence for more detail on these public benefits

<sup>3</sup> Refer to Paragraph 8.7 of my Evidence

- **Policy DM4: Renewable and Low Carbon Energy Generation;**
- **Policy DM5: Design;**
- **Policy DM9: Protecting and Enhancing the Historic Environment;**  
and
- **Policy DM12: Presumption in Favour of Sustainable Development.**

#### **Policy DM4**

8.30 **Policy DM4** on 'Renewable and Low Carbon Energy Generation' sets out a permissive framework which will grant planning permission for renewable and low carbon development (of which the Proposed Development is a type), providing the benefits are not outweighed by the harm to 7 criteria as specified in the policy. My reading of the policy is that the overall balance of considering the benefits of the Proposed Development as opposed to any detrimental impacts identified should be taken overall in respect of applying any impacts arising from a consideration of all seven criteria.

#### Criterion 1 – Landscape Character

8.31 As I have already noted earlier in my Evidence<sup>4</sup>, Mr Cook in his Evidence considers the landscape character and the potential effect of the Proposed Development and concludes that the Appeal Site lies at the confluence of three local Landscape Character Areas, and as such is an area of transition between these character areas. Only a fraction of these areas would physically change in terms of their character as the landscape beyond the site would remain unchanged.

8.32 Therefore, in my opinion, this first criterion is satisfied.

#### Criterion 2 – Southwell Views/Thurgarton Hundred Workhouse

8.33 The Proposed Development will not materially affect Southwell Views or the setting of the Thurgarton Hundred Workhouse. Therefore, in my opinion, this second criterion is satisfied.

#### Criterion 3 – Heritage Impacts and their Settings

---

<sup>4</sup> See my Evidence, paragraphs 7.8 and 8.21

8.34 Ms Garcia in her Evidence concludes that there will be less than substantial harm at the lower end of the scale in respect of the setting of the Halloughton Conservation Area. I have already considered this low level of harm in the planning balance applied at the conclusion of my assessment of compliance with **Core Policy 14<sup>5</sup>**.

8.35 Ms Garcia also concludes that there will be no harm to the heritage significance of any other designated heritage assets.

Criterion 4 – Amenity Considerations

8.36 In respect of noise, I note that the Environmental Health Officer raised no objection to the Proposed Development, subject to the imposition of a suitable planning condition. I further note that the Committee Report concludes that *'it is not considered that the proposal would have a significant adverse impact on neighbouring land uses in accordance with the aims of the NPPF and Policy DM5 of the DPD.'* This matter is now agreed with the Council in the Statement of Common Ground (*Core Document C4, paragraph 8.48*).

8.37 The Proposed Development would not generate shadow flicker, this being an impact which can result from wind turbines but not solar farms. This criterion is therefore met.

8.38 Electro-magnetic interference is not a consideration of relevance to the consideration of the proposed Development, again being more associated with wind turbine schemes.

8.39 Therefore, in my opinion, this fourth criterion is satisfied.

Criterion 5 – Highway Safety

8.40 The LPA's Committee Report notes that no objection is raised by the Highways Authority subject to suitable planning conditions, and the Planning Officer therefore concluded that the proposal would not amount to a detrimental impact on highway safety. This matter is agreed with the Council in the Statement of Common Ground (*Core Document C4, paragraph 8.28*).

---

<sup>5</sup> See my Evidence, paragraphs 8.24 – 8.26

8.41 I concur with this conclusion and therefore in my opinion the fifth criterion is also satisfied.

Criterion 6 – Ecology

8.42 I note that the ecological surveys provided in support of the planning application have been independently reviewed by the Nottinghamshire Wildlife Trust who concluded that the results were reliable, and I further note that these surveys conclude that there are no adverse impacts upon protected species.

8.43 A Biodiversity Management Plan has been submitted alongside the planning application which recommends a suite of wildlife enhancement measures including the provision of bird and bat boxes, creation of new hedgerows, tree belts, swales, grassland, field margins and species rich seed mixes to provide favourable habitats for a range of species. I note that the Nottinghamshire Wildlife Trust consider that through the creation of habitats as proposed, biodiversity net gain on the site could be achieved, and that this conclusion is consistent with the Biodiversity Net Gain Calculation submitted which provides quantified evidence on this matter.

8.44 It is now agreed with the Council in the Statement of Common Ground that the Proposed Development complies with Policy DM5 in respect of ecology (*Core Document C4, paragraph 8.45*).

8.45 In my opinion, this sixth criterion is therefore satisfied.

Criterion 7 – Aviation Interests

8.46 There will no adverse impacts on aviation interests, as evidenced by the findings of the submitted Glint and Glare Assessment which accompanies the planning application, which included an assessment of the aviation activity associated with RAF Syerston. I further note the representations on behalf of the Ministry of Defence confirming no objection (*Core Document B24*). I am therefore satisfied that this criterion has been satisfied.

Policy DM4 Conclusions

8.47 Having regard to the above considerations, I am of the opinion that the Proposed Development complies with **Policy DM4**.

### **Policy DM5**

- 8.48 In respect of **Policy DM5** on 'Design', three of the 10 criteria set out in the policy are not in my opinion material to a consideration of the Proposed Development, namely criteria 6 (crime and disorder), 8 (unstable land) and 10 (advertisements).
- 8.49 Taking the remaining seven criteria in terms of their applicability to the Proposed Development:
- 8.50 Criterion 1 concerns provision of safe access. This can be satisfactorily achieved, subject to the imposition of planning conditions, as I have already set out in respect of **Policy DM4**<sup>6</sup>.
- 8.51 Criterion 2 requires appropriate parking. I note again that the Highways Authority have raised no objection to the Proposed Development and therefore this criterion is satisfied in respect of both construction and operational stages of the development.
- 8.52 Criterion 3 requires that there should not be an unacceptable reduction in amenity, including overbearing impacts, loss of light and privacy. It is agreed through the Statement of Common Ground that the Proposed Development will not have a significant impact on neighbouring land uses in accordance with **Policy DM5** (*Core Document C4, paragraph 8.48*) I share this opinion, and this criterion has been satisfied in so far as it in relates to the form of development proposed.
- 8.53 Criterion 4 relates to a consideration of local distinctiveness and character, and this principally relates to applying the Landscape Character Assessment SPD. For the reason sets out earlier in my Evidence<sup>7</sup>, I am of the opinion that this criterion is satisfied.
- 8.54 Criterion 5 considers natural features of importance within or adjacent to the site. The landscape scheme submitted with the planning application details the trees and hedgerows to be protected and any loss of such features can be appropriately mitigated through additional planting as proposed in the Biodiversity Management

---

<sup>6</sup> See my Evidence, paragraph 8.40

<sup>7</sup> See my Evidence, paragraph 8.31

Plan. This will result in a net gain on site in terms of tree and hedgerow planting. In my opinion, this criterion is therefore satisfied.

8.55 Criterion 7 relates to ecology and habitats. As I have already explained earlier in my Statement when considering **Policy DM4**<sup>8</sup>, it is accepted that there will be a net gain in biodiversity the application has appropriately been supported by ecological surveys. As such, in my opinion this criterion is satisfied.

8.56 Finally, criterion 9 concerns flood risk, and this is a matter I have already addressed earlier in my statement when considering **Core Policy 9**<sup>9</sup>. In my opinion, this criterion is satisfied.

#### Policy DM5 Conclusions

8.57 Having regard to the above considerations, I am of the opinion that the Proposed Development complies with **Policy DM5** in all relevant regards.

#### Policy DM9

8.58 In respect of **Policy DM9** which concerns 'Protecting and Enhancing the Historic Environment', the potential impact of the Proposed Development on heritage assets has already been reviewed earlier in my Statement in respect of listed buildings and Conservation Areas<sup>10</sup>.

8.59 With regard to archaeology, a Desk Based Assessment and further field evaluation in the form of trial trenching has been undertaken to support the planning application. I note that the LPA's Archaeology Officer has not raised an objection to the application, subject to conditions requiring further trial trenching evaluation post determination. I further note that the Committee Report confirms that the proposal is not considered to result in any adverse impact upon archaeological remains in accordance with **Policy DM9** (*Core Document A43A, page 42*) and this matter is also confirmed in the Statement of Common Ground (*Core Document C4, paragraph 8.36*). I concur with this advice, and conclude that **Policy DM9** has been satisfied in this regard.

---

<sup>8</sup> See my Evidence, paragraph 8.42 - 8.44

<sup>9</sup> See my Evidence, paragraphs 8.9 - 8.11

<sup>10</sup> See my Evidence, paragraphs 8.24 - 8.26

Policy DM9 Conclusions

- 8.60 Any harm identified with **Policy DM9** needs to be weighed in the overall planning balance, which I do in section 11 of my Evidence.

**Policy DM12**

- 8.61 **Policy DM12** on 'Presumption on Sustainable Development' reflects a key tenet of planning law and also national planning policy as set out in the NPPF. As evidenced throughout Section 8 of my Evidence, the Proposed Development is in broad compliance with the Development Plan, and where there is less than substantial heritage harm identified, in my opinion the public benefits more than outweigh the harm, such that the relevant policies of the Development Plan are not offended.

**Southwell Neighbourhood Plan**

- 8.62 The north-west part of the Appeal Site is located within the boundary of the Southwell Neighbourhood Plan 2015-2016 which was made in October 2016.
- 8.63 The Reason for Refusal is not specific as to which policies in the Neighbourhood Plan are suggested to be conflicted.
- 8.64 I note that **Policy E6** on '**Climate Change and Carbon Emissions**' is relevant to the consideration of this appeal.
- 8.65 Whilst **Policy E6** is a broadly supportive policy for low carbon energy schemes to support efforts to reduce dioxide emissions, five criteria are required to be met. The first two criteria, namely in relation to impact on local landscape character, and secondly the impact on the setting and character of any heritage asset, reflect those considerations already examined earlier in my Evidence as part of considering the Core Strategy policies and the Allocations and Development Management DPD policies.
- 8.66 Renewable energy projects of this scale will inevitably have some impact on local landscape character and in all likelihood have some impact on a heritage asset or its setting because they are large scale, and such assets are commonplace in the countryside. By way of example, Historic England estimate that there are between 400,000 - 500,000 listed buildings, and approximately 10,000 Conservation Areas designated in England. **Policy E6** in the Neighbourhood Plan imposes a higher level of test than that set out in **Policy DM4** of the Local Plan

which inter alia requires the benefits to outweigh the detrimental impact upon landscape character and/or heritage assets and their settings. In my opinion, the planning balance approach applied in **Policy DM4** better incorporates the approach established in the NPPF para 158, which is that renewable energy schemes should be approved 'if its impacts are (or can be made) acceptable.' In my opinion, the NPPF read as a whole implicitly accepts that there may be negative impacts arising from development, particularly schemes such as this but, rather than requiring no impacts at all, that the result of any residual impact should be 'acceptable'. My reading of **Policy E6** is therefore that any negative impact on landscape and/or heritage should similarly be assessed as to whether that impact is acceptable rather than whether the effect is negative to any extent.

- 8.67 I further note that the Secretary of State made the Development Consent Order for the Cleeve Hill solar farm project in May 2020 (*Core Document H6B, paragraph 4.15*), despite accepting that there would be major and adverse effects on an Area of High Landscape Value; and further that in the area of the Development there would be adverse effects on landscape character, scenic value, recreational value, landscape quality and condition; rarity and representativeness. In addition, two residential properties were found to experience major and significant long-term impacts on some views as would two Public Rights of Way locally. In consenting the Cleeve Hill development, the Secretary of State also accepted the resulting harm to the setting of a number of heritage assets (*Core Document H6B, paragraph 4.15*) which were duly weighed in the planning balance.
- 8.68 I appreciate that the Cleeve Hill Decision relates to a difference scale of development, but it is nonetheless solar development that gave rise to similar benefits as will arise in this case. Moreover, I note that the size of the appeal scheme falls just below the DCO threshold, and so it is appropriate to consider that decision in this context.
- 8.69 In my opinion, this positive decision by the Secretary of State to make the Order at Cleeve Hill demonstrates that the application of national policy accepts that there may be some adverse effects, both in respect of landscape, and heritage assets, but they may nonetheless be acceptable when weighed against the benefits of the scheme in the overall planning balance. I comment further on the implications of the Cleeve Hill decision in Section 9 of my evidence.

- 8.70 I therefore conclude on **Policy E6** that whilst there would be limited negative impact on local landscape character and less than substantial harm to the setting of the Halloughton Conservation Area, any such harm needs to be weighed in the overall planning balance (as **Policy DM4** requires) which I undertake in Section 11.
- 8.71 **Policy SD1** is concerned with ‘**delivering sustainable development**’. I have already addressed the relevant criterion in respect of flood risk considerations earlier in my Statement<sup>11</sup>, and I noted it is agreed with the Council in the Statement of Common Ground that the Proposed Development will not adversely impact on flooding or drainage, subject to conditions.
- 8.72 **Policy E3** is concerned with **green infrastructure and biodiversity**. I have already addressed the ecological and biodiversity net gain considerations earlier in my Statement<sup>12</sup>, and I note that the LPA Committee Report confirms that the Proposed Development is assessed as complying with the provisions of the Southwell Neighbourhood Plan. The Statement of Common Ground confirms that it is agreed that the provisions of the Neighbourhood Plan are complied with in respect of ecology (C4, paragraph 8.40). As I go onto explain in Section 11 of my Evidence, the ecological benefits that the Proposed Development will achieve go well beyond policy requirements and provide a very substantial biodiversity net gain.
- 8.73 **Policy E4** is concerned with **public rights of way and wildlife corridors**. With regard to impacts on PRoW, the Committee Report (*Core Document A43A, page 7*) notes that there is no objection to the scheme from the Rights of Way team given there is no proposed closure or alteration to the PRoW that cross the site, and this is further confirmed in the Statement of Common Ground with the Council (*Core Document C4, paragraph 8.29*). The **Policy E4** requirement in this regard is therefore met in my opinion.

### **Planning Policy Conclusions**

- 8.74 Having regard to the above considerations, it is my opinion that the Proposed Development broadly complies with the Policies cited by the LPA in their Reason for Refusal read as a whole. A conflict with part of a policy, or even one policy in the development plan, would not automatically lead to the conclusion that there

<sup>11</sup> See my Evidence, paragraphs 8.9 – 8.11

<sup>12</sup> See my Evidence, paragraphs 8.42 – 8.44

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 H7*).

8.75 It is taken to be common ground between the Appellant and LPA that the Proposed Development is not in conflict with other relevant Development Plan policies not specified in the Reason for Refusal.

8.76 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 D1, paragraph 11*), it is also necessary to consider whether material considerations indicate otherwise.

### **Energy Policy Considerations**

9.2 This section provides a summary of the most relevant energy legislation, policy and guidance for this Appeal.

### **UK Legislation and Policy**

9.3 The 'Climate Change Act 2008' (*Core Document D8*) 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.

9.4 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 D9*).

9.5 The 'Clean Growth Strategy' (*Core Document D10*) 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.

9.6 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 (*Document D11*).

9.7 At the local level, Newark and Sherwood District Council has joined many other local authorities and also declared a Climate Emergency on 16th July 2019 (*Core*

*Document E4*). The Council published a Climate Emergency Strategy (September 2020) (*Core Document E5*) which focuses on reducing the energy consumption of Council operated buildings and fleet, and to reduce waste. However, the Council agreed to the following overarching commitment:

**"Newark and Sherwood District Council has set a target of becoming a carbon neutral organisation by 2035."**

9.8 The Council's Strategy notes that the Council's footprint from emission sources, for the financial year 2018/19 was 2,165t CO<sub>2</sub>e, and that total carbon footprint of the District was 987,800t CO<sub>2</sub>e. The Proposed Development would yield a saving of 20,690t Co<sub>2</sub>e per annum (*Core Document A43A, page 46*), which would represent a 10-fold saving over that the Council alone could achieve through the successful application of its own Strategy to 2035.

9.9 More recently, the Government published the Energy White Paper: Powering our Net Zero Future in December 2020 (*Core Document D12*). 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 forward:

**"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."**

## Progress

- 9.12 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 July 2021 Digest (*Core Document D14*) noting that the UK's generation continued to evolve and move away from fossil fuels and towards renewables alternatives, although it should be noted that fossil fuel generation still amounted to 37.7% of the UK's generation in 2020. Given the challenges arising from forecast increased demand for electricity that I discuss below, I note with concern that the UK's total generation capacity decreased in 2020 to 75.8GW, a 2.7% decrease in the 77.9GW capacity in 2019, which the Digest notes was due to the closure of the coal power station Fiddlers Ferry and nuclear station Dungeness B (*Core Document D14, page 26*).
- 9.13 The National Audit Office has recently 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 D16*). 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.
- 9.14 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."**
- 9.15 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.
- 9.16 Even since the appeal was submitted in July 2021, carbon reduction policy development continues unabated. The Government published its '**Net Zero Strategy: Build Back Greener**' (*Core Document D18*) in October 2021 which establishes that the UK will be powered entirely by clean energy by 2035, subject to security of supply (*Core Document D18, first bullet point, page 19*).

- 9.17 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 D18, second bullet point, page 94*). The Government identifies the Contracts for Difference 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.
- 9.18 Another of the key commitments is '*to ensure the planning system can support the deployment of low carbon energy infrastructure*'.
- 9.19 I share the opinion of the National Audit Office that the challenge presented here is colossal. 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 D18, paragraph 10, pg 98*).
- 9.20 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 D18, paragraph 11, pg 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 D18, paragraph 35, pg 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 D18, paragraph 36, pg 103*).
- 9.21 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 D18, paragraph 32, pg 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.

- 9.22 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 D18, paragraph 143, pg 105). One of the solutions proposed is to maximise system flexibility through storage technologies. I note that the Proposed Development includes battery storage as an integral component of the scheme which will complement the government's net zero strategy.

### **Summary**

- 9.23 The above matters emphasis the immediate and pressing need for deployment of renewable energy generation 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 renewable energy technologies more generally, are recognised by the Government as a key part of the UK's transition to achieving a low carbon economy and tackling Climate Change.
- 9.24 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.
- 9.25 The UK and Newark and Sherwood's 'Climate Emergency' declarations provide further context for this Appeal. The Proposed Development would support the intentions of this action and would substantially exceed the local commitment for Newark and Sherwood Council to become carbon neutral by 2035.
- 9.26 Given that the Proposed Development does not offend the protection of areas or assets of particular importance as indicated in Footnote 7 to the NPPF paragraph 11 (*Core Document D1*), save for the very limited harm to the setting of the Halloughton Conservation Area, it is my opinion remarkable that a scheme of this size with its ability to generate this quantum of low carbon energy can be accommodated which such limited impact.

9.27 The application of the Government's energy policy framework is a 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

9.28 The latest version of the NPPF (*Core Document D1*) was updated on 20<sup>th</sup> July 2021, after the LPA made its formal decision on the Proposed Development in March 2021.

9.29 It sets out the Government's planning policies for England and how these are expected to achieve sustainable development. I draw attention to the following key paragraphs in relation to the determination of this appeal.

9.30 First, I note that 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.

9.31 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 and material contribution to cutting greenhouse gas emissions, a point the LPA accept in the SoCG (*Core Document C4, paragraphs 8.8- 8.11*).

9.32 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 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.

9.33 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.

National Planning Practice Guidance (NPPG) (first published March 2014)

- 9.34 The Government's web-based NPPG went live in March 2014 (*Core Document D2*) 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.
- 9.35 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.
- 9.36 I am of the opinion that the above considerations are satisfactorily addressed for the reasons set out elsewhere in my evidence as noted above.

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

- 9.37 EN-1 (*Core Document D3A*) was published in July 2011 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 and it has been agreed in the Statement of Common Ground that both NPS's and their recent draft replacements are material considerations for the purposes of this appeal (*Core Document C4, paragraph 7.12 , 7.13 respectively*).
- 9.38 Paragraph 3.4.1 sets out the UK commitments to sourcing 15% of energy from renewable sources by 2020. To hit this target, and to largely decarbonise the power sector by 2030, EN-1 states that:
- "It is necessary to bring forward new renewable electricity generating projects as soon as possible. The need for new renewable energy electricity generation projects is therefore urgent."**
- 9.39 The National Policy Statement sets out 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.

- 9.40 A Draft of NPS EN-1 (*Core Document D3B*) was published in September 2021. I note that it specifically considers the implications of meeting net zero at Section 2.3 (*Core Document D3B, page 16*) and explains that the Government's objectives for the energy system are to secure our supply of energy always remains secure, reliable, affordable and consistent with meeting our target to cut GHG emission to net zero by 2050. It states that '*This will require a step change in the decarbonisation of our energy system*'. (*Core Document D3B, paragraph 2.3.2*)
- 9.41 It further notes that the sources of energy we use will need to change, as fossil fuels still accounted for just over 79% of our energy supply in 2019. It continues 'we will need to dramatically increase the volume of energy supplied from low carbon sources and reduce the amount provided by fossil fuels'. (*Core Document D3B, paragraph 2.3.4*) In my opinion, this statement again reinforces the messages from the plethora of recent government announcements that there is a need to substantially increase low carbon energy generation beyond current rates of deployment. The Proposed Development would make a meaningful and material contribution.
- 9.42 Indeed, the NPS continues to explain the 'urgent need for new generating capacity' (*Core Document D3B, page 28*), that wind and solar are the lowest cost ways of generating electricity, and that the government's '*... 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 D3B, paragraph 3.3.21*).

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

- 9.43 EN-3 (*Core Document D4A*) was also published in July 2011 and sets out the national policy for renewable energy projects. EN-3 should be read in conjunction with EN-1. 4.53 Similar to EN-1, EN-3 sets out the importance of renewable energy in achieving the Government's ambitious targets for renewable energy generation, highlighting that a "*significant increase in generation from large-scale renewable energy infrastructure is necessary to meet the 15% renewable energy target*".
- 9.44 A draft of NPS EN-3 *Core Document D4B* was also published in September 2021. It is again noted that this is a draft document, the contents of which are subject

to change, however, it is considered that the guidance set out in this document should be afforded appropriate weight as the latest statement of Government planning policy on solar farms.

- 9.45 This document confirms that the Government is committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions. I note that the government affirms that *'as such solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector.'* (Core Document D4B, paragraph 2.47.1). Given that this statement is entirely consistent with the subsequent publication in October 2021 of the Net Zero Strategy, I am of the opinion that these draft policy statements should be afforded significant weight in this appeal.
- 9.46 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.
- 9.47 I draw particular attention to the inclusion of the consideration of the time-limited effects of a solar scheme. The draft NPS states at paragraph 2.49.13 that where a time-limit is sought by an applicant as a condition of consent, *'... it is likely to be an important consideration for the Secretary of State when assessing impacts such as landscape and visual effects and potential effects on the settings of heritage assets'*. The paragraph continues that *'Such judgements should include consideration of the period of time sought by the applicants for the generating station to operate. The extent to which the site will return to its original state may also be a relevant consideration'*. Given the time limited extent of 40 years that is being sought, and the decommissioning of the solar farm beyond that time with a legacy of new hedgerow, tree and wildflower meadows enduring as a legacy of the Proposed Development, this will enhance the landscape character in the long-term, are matters that should be given significant weight.
- 9.48 I note that there is a further reference to the consideration of the time-limited nature of solar farms repeated within paragraph 2.53.8, when discussing impacts from solar photovoltaic generation on cultural heritage.

### **Appeal Decisions**

- 9.49 I have drawn reference earlier in my Evidence to some of the implications of the recent Secretary of State decision to make a Development Consent Order for the Cleve Hill solar and battery storage scheme. Whilst the Cleeve Hill project was a Nationally Significant Infrastructure Project (NSIP) by reason of the fact that it exceeded the 50MW threshold for being determined under these Regulations, nevertheless the rationale and application of the National Policy Statements policy remains highly relevant in my opinion to this appeal given its similarity of function and that it is on the cusp on the NSIP 50MW threshold. In this regard, I note that the LPA accept that both EN-1 and EN-3 are material considerations in the determination of this appeal in the SoCG (*Core Document C4, Section 7*). I therefore comment here in more general terms in connection with the application of a planning balance and the respective weight applied by the Secretary of State to different material considerations.
- 9.50 The Secretary of State considered that there was a strong case in favour of granting development consent for the proposed Development. National Policy Statement EN-1 gave support to renewable electricity generating nationally significant infrastructure projects which the Secretary of State decided was *'relevant and important to the consideration of the Application'*.
- 9.51 He acknowledged that this support must however be considered in the planning balance. In addition, the Secretary of State applied substantial weight to the contribution to meeting the need for renewable energy infrastructure given by the proposed solar farm element of the Proposed Development on its own account and the further weight in favour of the proposed development's battery storage facility. He further noted that the Development would, in addition to meeting demand for electricity, also do in a way which be consistent with the Climate Change Act 2008 (2050 Target Amendment) Order 2019 which amended the Climate Change Act 2008 to set a legally binding target of a 100% reduction in greenhouse gas emissions (compared to 1990 levels) in the United Kingdom.
- 9.52 The Secretary of State also accepted there are a number of adverse effects also identified in respect of landscape, visual, recreational, and cultural heritage impacts, and limited weight to temporary transport and traffic impacts. In addition, local residents and some local organisations had raised various concerns, including about the proposed battery storage facilities citing the risk of

fire, explosion and the release of poisonous gases and the impacts on amenity, wildlife and general well-being.

- 9.53 Of particular relevance to this appeal was that Cleeve Hill scheme was identified as having the potential to cause adverse effects and less than substantial harm to the significance of a number of heritage assets, including listed buildings and a Conservation Area. The Examining Authority concluded that the scheme would not preserve those elements of setting which make a positive contribution to significance. However, when considering the planning balance, the Examining Authority (*Core Document H6A*) concluded at paragraph 10.3.9 of the report:

*"We conclude that none of the matters telling against the development, either in isolation or in combination, irrespective of whether the Proposed Development takes the form of a solar PV array and energy storage system, or whether the energy storage system is omitted in favour of an extension to the array, outweigh the significant benefits that we have described."*

- 9.54 In the Overall Conclusion for the Case for Development at Section 10.4, the Examining Authority concluded:

*"In our judgement, the local, national and global benefits to be gained from the Proposed Development in terms of its contribution to decarbonising electricity generation and addressing climate change are such that they outweigh the adverse impacts that are identified above in relation to the construction, operation and decommissioning of the Proposed Development."*

- 9.55 In my opinion the decision is clear, that even where adverse effects of a much greater scale than those arising from the proposed scheme have been identified to designated heritage assets of the highest and less than highest significance in accordance with NPPF, this harm, which was less than substantial was outweighed by the clear and convincing benefits of the proposed solar scheme.

- 9.56 Of interest in the Cleeve Hill Solar Park Examining Authority Report is also the reference at paragraph 10.3.10 to the time-limited duration of the scheme and the reversibility if identified adverse effects. This consideration of the time-limited duration of the scheme was clearly a factor in the decision to grant Development Consent. This approach is consistent with the subsequent

publication by the Government of the draft NPS EN-3, as referred to earlier in my evidence<sup>13</sup>.

---

<sup>13</sup> See my Evidence, paragraph 9.47

## 10. THIRD PARTY REPRESENTATIONS

10.1 I note that the following matters have been variously raised in representations on the Planning Application and the subsequent appeal.

### **Effect on Heritage and Archaeology**

10.2 In respect of the impact on the Proposed Development on the character and setting of the Conservation Area and the listed buildings, Ms Garcia examines each of these considerations in detail within her Evidence. In summary, she reaches the conclusion that the effects would be less than substantial, and at the lower end of the spectrum. I have already addressed heritage policy matters earlier in my evidence<sup>14</sup>.

10.1 A number of third-party comments have also been made with regard to below-ground archaeology within the proposed development site. Again, Ms Garcia has examined this matter within her Evidence, noting that fieldwork consisted of a geophysical survey in 2019 followed by a trial trench evaluation carried out in December 2020. The results of the evaluation were submitted to the Historic Environment Officer who responded that they were content to recommend that further mitigation works be undertaken as a condition of consent. I note that a planning condition has duly been proposed for further archaeological investigation post-determination, and that this an agreed matter between the Council and the Appellant (*Core Document C4, paragraph 8.36*)

### **Suitability of the Location and Effect on Agricultural Land**

10.2 Representations have been received regarding the suitability of the location, including the size of the solar farm and use of agricultural land.

10.3 The Statement of Common Ground between the LPA and the Appellant agrees that the location of the site is in close proximity to a suitable grid connection point and further that there are no suitable alternative brownfield sites to accommodate the scale of the proposed Development with access to this same connection point (*Core Document C4, paragraphs 8.19 and 8.20*).

10.4 In this regard, draft National Policy as set out in Draft EN-3 (*Core Document D4B, paragraph 2.48.11, page 81*) explains that the capacity of the local grid network to accept the likely output from a proposed solar farm is critical to the technical

---

<sup>14</sup> See my Evidence, paragraphs 8.24 – 8.26

feasibility of the development. It also sets out that locating solar farms at places with grid connection capacity enables the applicant to maximise existing grid infrastructure, minimise disruption to local community infrastructure or biodiversity and reduce overall costs. In the case of the Proposed Development, I note that there is a confirmed grid connection offer in place with the Appellant.

- 10.5 In respect of the use of agricultural land, an updated Agricultural Land Classification Report was submitted in November 2020 (*Core Document A4 (B)*).
- 10.6 In the Statement of Common Ground between the LPA and the Appellant, I note it is agreed that the site is Grade 3b in classification (and therefore not in the best and most versatile category), that it would not prejudice the use of Best and Most Versatile Land, that the appeal site would be subject to continued agricultural use during the operational period of the solar farm through sheep grazing between the panels, and that there would be no permanent loss of agricultural resource, with the exception of the land take associated with retaining the substation. (*Core Document C4, paragraphs 8.14 - 8.18*).
- 10.7 I further note that the draft National Policy as set out in Draft EN-3 (*Core Document D4B, paragraph 2.48.13, page 82*) explains a number of land type categories which should be utilised by solar PV projects, and one of these categories is 'agricultural land preferably of classification 3b, 4 and 5'. The appeal site, being grade 3b, falls within this preferred category.

#### **Effect on hydrology and flood risk**

- 10.8 Representations have been received regarding a concern over an increase to risk and likelihood of flooding and surface water runoff in Halloughton.
- 10.9 A Flood Risk Assessment was submitted as part of the Planning Application (*Core Document A9*).
- 10.10 The Statement of Common Ground between the LPA and the Appellant agrees that the proposed development will not adversely impact on flooding or drainage. (*Core Document C4, paragraph 8.33*). It further acknowledges that neither the Environment Agency, nor the Nottinghamshire County Council Lead Local Flood Authority, raised an objection to the Proposed Development, subject to the imposition of a condition requiring the provision of a detailed drainage scheme (*Core Document C4, paragraph 8.32*).

10.11 I further note that the FRA submitted with the application identifies a betterment to the existing greenfield run off rates and in water quality, and I return to examine that further in Section 11 of my Evidence in the Overall Planning Balance.

**Effect on landscape**

10.12 This has been examined above in my Evidence and I rely on the Evidence of Mr Cook in this regard<sup>15</sup>.

**Effect on public rights of way**

10.13 Representations were in respect of the effect on public rights of way and their users.

10.14 It is common ground between the Appellant and the Council no objection was raised to the Proposed Development in terms of physical impacts on the alignment of Public Rights of Way (*Core Document C4, paragraph 8.29*).

10.15 I have explained earlier in my evidence that the visual effect on the public rights of way has been examined, and I rely on the Evidence of Mr Cook in this regard<sup>16</sup>.

**Effect on amenity and noise**

10.16 Representations were received that noise from the battery stations and inverters will affect residential receptors and the enjoyment of outside spaces.

10.17 A noise Assessment was submitted as part of the Planning Application documentation in July 2020 (*Core Document A.14*).

10.18 Whilst the Statement of Common Ground between the LPA and the Appellant acknowledges that the Proposed Development will give to a slight hum during operation, it is agreed that this would be contained within the Appeal Site boundary (*Core Document C4, paragraph 8.47*), and it further also acknowledges that the Council's Environmental Health Officer (EHO) raised no objection to the proposed development, subject to the provision of a Noise Attenuation scheme and a suitably worded condition. (*Core Document C4, paragraph 8.46*).

---

<sup>15</sup> See my Evidence, paragraph 7.8

<sup>16</sup> *Op cit*

10.19 It is also common ground with the Council that the Proposed Development will not have a significant adverse impact on neighbouring land uses (*Core Document C4, paragraph 8.48*).

#### **Effect on ecology**

10.20 Representations have been received expressed concern over the impact of the Proposed Development on habitats and ecology.

10.21 A suite of ecological information was submitted to accompany the determination of the planning application, including an Ecological Assessment Report (9A8 A), Biodiversity Metric Calculations (*Core Documents A8 B and C*), a Biodiversity management Plan (*Core Document A8 D*) and a Great Crested Newt eDNA survey (*Core Documents A8 E*).

10.22 The Statement of Common Ground between the LPA and the Appellant acknowledges that neither Natural England nor the Nottinghamshire Wildlife Trust have raised objection to the Proposed (*Core Document C4, paragraphs 8.37, 8.38*).

10.23 Further, the Council agrees that through the creation of habitats, the Proposed Development will provide an Overall Biodiversity Net Gain of 36.78% in habitat units and is a benefit that weighs in favour of the scheme (*Core Document C4, paragraph 8.39*). I note that this biodiversity net gain would be substantially in excess of the forthcoming target of achieving a 10% net gain which is being proposed through the Environment Bill, and will not be realised without the appeal scheme.

#### **Effect of construction on highway safety**

10.24 Representations were received that the construction of the proposed development would create traffic problems for Halloughton village and the suitability of the proposed access connection.

10.25 The Planning Application was accompanied by a Construction Management Plan (*Core Document A6*) and a Note Addressing Site Access Arrangements (*Core Document A17*).

10.26 The Statement of Common Ground between the LPA and the Appellant agrees that the Highways Authority did not object to the proposed access position (*Core*

*Document C4, paragraph 8.23*), nor 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 (*Core Document C4, paragraph 8.27*). It is also agreed that the Proposed Development would not give rise to a detrimental impact on highway safety in accordance with development plan policies (*Core Document C4 - paragraph 8.28*).

## **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 In my opinion the determination which would be in accordance with the Development Plan would be to allow the appeal because the Proposed Development accords, where relevant, with the Development Plan when read as a whole.

### **Overall Planning Balance Considerations**

11.4 Taken overall, for the reasons set out in Chapter 8 of my Statement, I consider that the proposals are broadly in accordance with the Development Plan and this would normally indicate that planning permission should be approved without delay (NPPF, Paragraph 11). There are no material considerations that indicate permission should be refused.

11.5 However, should the Inspector conclude that the Development Plan indicates that the appeal should be dismissed, then, applying S38(6), there is a need to consider whether material considerations indicate otherwise.

### **Material Considerations and Weight**

11.6 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
- Moderate
- Limited

11.7 Such weight may be 'positive' as a benefit, 'adverse' as a harm, or of 'neutral' effect.

11.8 Set out below is an assessment of each of these material considerations followed by a conclusion of whether the benefits outweigh any adverse impacts identified when taken as a whole. Note that a specific heritage balancing exercise, as required by the NPPF paragraph 196 and set out within **Policy DM4**, is undertaken in Chapter 8 of this Statement.

### **Material Considerations which are Benefits**

11.9 I consider that the following material considerations are benefits which are positive:

#### 1. Generation of Renewable Energy and Contribution to Transition to a Low Carbon Economy

11.10 The legislative and policy framework has been set out in Section 9 of my Evidence, which establishes the imperative for significant reductions in CO2 emissions.

11.11 I consider this clearly demonstrates the immediate and pressing need for deployment of renewable energy generation in the UK, which is derived from the challenging legally binding obligations to reach "net zero" by 2050. The Proposed Development would make a material and appreciable contribution to meeting the amended Climate Change 2008 targets, having a capacity of 49.9MW and generating electricity to power approximately 12,000 homes, resulting in savings of carbon dioxide emissions during its operational period of c. 20,690t Co2 per annum.

11.12 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 is necessary. The continued deployment of solar farms and renewable energy technologies more generally are recognised by the Government as a key part of the UK's transition to achieving a low carbon economy and tackling Climate Change.

11.13 Since the adoption of the three current Development Plan documents (in 2013, 2016 and March 2019), the increasing urgency of the need to reduce carbon

emissions is evident from the UK Government declaring a climate change emergency in May 2019, the LPA itself declaring a climate emergency in July 2019 and then publishing a Newark and Sherwood District Council Climate Emergency Strategy in September 2020, and more recently still national energy policy being directed towards encouraging further growth in low carbon energy generation as set out in the Energy White Paper published in December 2020 and the publication of the Net Zero Strategy in October 2021.

11.14 I therefore conclude that this consideration should be given **substantial** positive weight in favour of planning permission being granted.

## 2. Landscape Enhancements

11.15 I refer to the submitted Landscape Scheme and to Biodiversity Management Plan which shows a net gain on site in terms of tree and hedgerow planting.

11.16 These measures will serve to create a more coherent landscape framework across the Appeal Site which will enhance landscape character both in the lifetime of the scheme and once it is decommissioned.

11.17 I consider this to represent an environmental benefit which should be given **moderate positive** weight in favour of planning permission being granted.

## 3. Ecological Enhancements

11.18 I refer the Biodiversity Management Plan which sets out the following measures included in the scheme to provide enhance biodiversity:

- Additional planting of native species and long-term management of existing trees and hedgerows, to improve ecological connectivity and wildlife corridors.
- Sowing of a suitable species-rich neutral grassland seed mix on land beneath the solar panels with a suitable seed mix suitable for appropriate habitat creation.
- Provision of bat and bird boxes on mature and semi-mature trees along field boundaries and immediately surrounding Appeal Site, to support bird nesting and bat roost provision.

11.19 Given that it is agreed that the Proposed Development will provide an overall Biodiversity Net Gain of 36.78% in habitat units (*Core Document C4, paragraph 8.39*), and that these habitats will endure as a legacy of the scheme that would not be realised without it, I consider these measures to represent an environmental benefit which should be given **significant positive** weight in favour of planning permission being granted.

#### 4. Flood Risk Betterment

11.20 The submitted Flood Risk Assessment (*Core Document A9*) explains that the small amount of impermeable area created by the Proposed Development (those areas associated with the substation and infrastructure required) is proposed to be mitigated by the implementation of SuDS in the form of swales, bunded storage and an attenuation basin which together will manage the disposal of surface water runoff from the proposed development on the site.

11.21 Further, the Officer notes in her Committee Report (*Core Document A43A, pages 40/41*) that the proposed SuDS have been agreed in collaboration with the Southwell Flood Forum members in order to provide some downstream betterment to flood risk and accepts that that some downstream betterment to flood risk could arise from the proposed scheme. This acceptance is caveated by a statement that the precise extent of this betterment does not appear to be shown in the FRA.

11.22 In terms of betterment explicitly raised in the FRA, I note four points in particular.

11.23 First, that the attenuation basin has been designed to manage an impermeable area of 600 sq.m, which the FRA states is almost four times the area of the proposed building (*Core Document A9, paragraph 7.6.3, pg 29*). The FRA concludes on this point that this will allow it to manage runoff from the intervening area and provide a net betterment.

11.24 Second, drainage from the basin will then be conveyed by swales which will slow the flow, encourage deposition and filtration and improve runoff quality (*Core Document A9, paragraph 8.1.5, pg 31*).

11.25 Third, additionally, two storage features are to be created to store surface water runoff from field in the Potwell Dyke catchment, and that following detailed

design, this would result in reduction in flood risk downstream particularly in the village of Southwell (*Core Document A9, paragraph 8.16, pg 31*).

11.26 Fourth, the FRA notes the cessation of intensive agriculture across the site which will allow establishment of natural grassland which will improve soil structure, and which in turn will reduce runoff rates and volumes, soil erosion and pollution (*Core Document A9, paragraph 8.16, pg 31*).

11.27 Taking these betterment considerations into account, I consider that this environmental benefit should also attract **moderate positive** weight in favour of planning permission being granted.

#### 5. Economic Benefits

11.28 The Proposed Development will result in the creation of 7-80 construction jobs in addition to jobs being created in the supply chain. The £30m capital expenditure in renewable energy infrastructure would help contribute towards funding and securing delivery on low carbon targets, whilst resulting in a business rates contribution to the District Council of c£190,000.

11.29 I consider this to represent an economic benefit which should be given **moderate/significant positive** weight in favour of planning permission being granted.

#### Other Considerations which are Neutral

11.30 With reference to the Officer's Committee Report, a number of material considerations are matters which the scheme is not held to have an adverse impact upon.

11.31 These include the effect on:

- agricultural land
- residential visual amenity
- noise (subject to appropriate planning conditions)
- highways safety and transport (subject to appropriate planning conditions)
- public rights of way

11.32 I further note that the Council in its Statement of Case (C3, para 4.28) confirms that the first four of the above considerations are similarly considered to be neutral in the planning balance.

11.33 With regard to the fifth consideration, namely public rights of way, it is agreed in the Statement of Common Ground that the Council raised no objection to the Proposed Development in terms of physical impacts on the alignment of the rights of way (C4, paragraph 8.29).

11.34 In respect of these material considerations, I therefore consider that those should be **neutral** in the planning balance.

### **Material Considerations which are Adverse**

#### 1. Heritage Effects

11.35 In reference to Ms Garcia's Evidence and as set out in the heritage balance I have applied earlier in Chapter 8 of my Evidence<sup>17</sup>, I consider the harm identified in heritage terms amounts to a small amount of harm which is less than substantial at the lower end of the scale to the significance of the Halloughton Conservation Area through changes to its setting which contribute to its significance.

11.36 The Appellant has taken all reasonable steps to minimise the harm identified, including to amend the planning application to remove panels from the southern-most part of the Appeal Site, to further limit effects on the setting of the Conservation Area. The level of harm assessed would also be removed entirely following the decommissioning of the scheme after the 40 year time limit.

11.37 Great weight should be given to the conservation of heritage assets, but I am mindful of Ms Garcia's conclusion that there is no harm to the heritage significance of any other designated heritage assets beyond the Halloughton Conservation Area as a result of the Proposed Development. As such I do not consider that Section 66 is engaged in this instance.

11.38 I note that the LPA Committee Report also refers to Section 72 of the above 1990 Act, which requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of a Conservation Area. However, in my opinion Section 72 is not engaged in this instance for the reasons set out in Ms Garcia's Evidence.

---

<sup>17</sup> See my Evidence, paragraphs 8.24-8.26

11.39 Whilst I consider harm to heritage assets should be afforded considerable weight in the overall planning balance, the steps taken to minimise that harm in the iterative scheme design and that the harm identified as at the lowermost end of the scale of harm, in my opinion means that this matter should be given **moderate negative** weight against planning permission being granted. I note that case law explains that duty to accord “considerable weight” to the desirability of avoiding harm does not mean that any harm, however slight, must outweigh any benefit, however great, or that all harms must be treated as having equal weight.

## 2. Effect on Landscape Character and Visual Amenity

11.40 In reference to Mr Cook's Evidence on landscape and visual effects, and to the conclusions he reaches, I note that the majority of effects are geographically localised and that beyond the environs of the site, neither the landscape character nor the visual amenity of users of the public rights of way would be materially affected. The scheme would have only an extremely limited and local effect on the general visual amenity of the area. I note too that there will be creation of new landscape features offering a positive benefit which will remain after the decommissioning of the scheme as a positive legacy into the long-term.

11.41 After balancing the extent of the immediate local and also the wider effects examined by Mr Cook, I consider that the effect on landscape character and visual amenity should be given **moderate negative** weight against planning permission being granted.

## Overall Planning Balance

11.42 Having considered the range of material considerations that are positive, adverse and neutral, it is my opinion that any adverse impacts of the Proposed Development would be significantly and demonstrably outweighed by the benefits, were it to be found that the Proposed Development did not accord with the Development Plan as a whole.

## Overall Conclusion

11.43 Following this analysis, my conclusion is that the proposals are in general accordance with the Development Plan when read as a whole. Even if the Inspector were to conclude that there would be some conflict with relevant

policies, I consider that the identified public benefits constitute material considerations that would indicate otherwise.

11.44 In view of the foregoing, the Inspector is respectfully requested to uphold this appeal and to grant planning permission.

## **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 in the process of being agreed with LPA.

