



DEPARTMENT FOR LEVELLING UP, HOUSING AND COMMUNITIES

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NEWARK AND SHERWOOD DISTRICT COUNCIL REF: 20/01242/FULM

TOWN AND COUNTRY PLANNING ACT 1990 (AMENDED)

SECTION 78

APPEAL

By JBM Solar Projects 6 Ltd

AGAINST

the decision of the Local Planning Authority (LPA) Newark and Sherwood District Council to refuse  
permission for the

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

At

Land North of Halloughton, Southwell

PLANNING PROOF OF EVIDENCE

by

Honor Whitfield MRTPI

on behalf of Newark and Sherwood District Council

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## **Chapter 1: Introduction**

### **1.0 Introduction**

- 1.1 This Proof of Evidence has been prepared by Honor Whitfield, Planning Officer at Newark & Sherwood District Council. I am a chartered Town Planner with four years' experience. I hold a Masters degree in Urban Planning and I am a member of the Royal Town Planning Institute.
- 1.2 This Proof of Evidence is provided on behalf of Newark & Sherwood District Council in relation to the appeal against the refusal to grant full planning permission for the construction of a solar farm and battery stations together with all associated works, equipment and necessary infrastructure at land north of Halloughton, Southwell.
- 1.3 This evidence which I have prepared and provide for this appeal within this proof is true, and has been prepared, and is given, in accordance with the guidance of my professional institution, the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions.
- 1.4 This Proof of Evidence explains the reason for refusal and provides an assessment of the overall planning balance. My evidence refers to a number of supporting evidence documents, all contained in the Core Documents for the inquiry. In this proof they are referred to by their reference number in the Core Documents List to assist the Inspector's assessment of the case. In this Proof, I also make reference to, and draw on the conclusions from, the Proofs of Evidence supplied by Mrs Helen Jones of VIA East Midlands in relation to landscape character and visual impact matters and the Proof of Evidence supplied by Adam Partington of Locus Consulting in relation to heritage matters.
- 1.5 The appeal site comprises 13 agricultural fields north of the village of Halloughton. Collectively all parcels of land are c.106.07Ha and given the isolated nature of the site it falls

as Open Countryside. The site is gently undulating and rounded, resulting in views being medium to long distance throughout most of the area with frequent wooded skylines.

- 1.6 The southern portion of the appeal site is located to the north of, and within the parish of Halloughton. This section of the site comprises five large linear fields with boundaries at their edge, including copses at the western and part of the southern boundary. Overhead electricity lines and pylons cross this parcel in an east-west direction. Halloughton village lies close to the southern boundary of the parcel and the A612 lies to the east of the eastern boundary. Agricultural land surrounds the parcel in other directions.
- 1.7 The northern section of the appeal site is located further from Halloughton and largely lies within the parish of Southwell, comprising seven separate fields of various sizes. The parcel includes buildings associated with New Radley Farm, which has its own access track from the north. There are two Public Right of Ways (PRoW) within the Site boundary, footpath 209/43/1 (Southwell 43) is located in the far northern extent of the Site, situated adjacent to the northern boundary. Bridleway 209/74/1 (Bridleway Southwell 74) runs from the north-eastern edge of Halloughton Wood in a broadly east to west direction through the central portion of the site terminating at Stubbins Farm in the east. Footpath 209/42/1 (Southwell 42) also runs adjacent to the western boundary of the site and adjoins to Southwell 43 broadly centrally along the northern boundary. Southwell Byway No.80 which becomes Halloughton Byway No. 9 at the parish boundary is also adjacent to the south-west corner of the site. An overhead electricity line runs east to west through the southern section of the site and the Westhorpe Dumble crosses the site in the same direction just to the north of this.
- 1.8 Land around the Westhorpe Dumble (a characteristic dialect word meaning “wooded valley”) is defined as a Local Wildlife Site (LWS) ‘Westhorpe Dumble 2/524 – a characteristic dumble’. A number of other LWS’s surround the appeal site such as: Westhorpe Dumble Head Drain – 2/724 ‘An unlikely association of uncommon grassland species on the banks of a drain’, Radley House Scrub – 5/3390 ‘woodland’, Cotmoor Lane – 2/719 ‘Broad wooded trackside verges’, and Cotmoor Plantation – 2/723 ‘ A damp deciduous woodland with a diverse flora’.

An area of Ancient Woodland 'Halloughton Wood' is located c.150m to the west of this site at its closest point.

- 1.9 The south-west parcel of the appeal site lies close (between approx. 70 - 250 m) to the boundary of Halloughton Conservation Area (CA), however only the proposed access lies within the CA boundary. The northernmost portion of the site lies c.0.9km from the boundary of Southwell CA. With regard to other nearby historic designations there are a number of Grade II and II\* listed buildings within Halloughton and Southwell along with the internationally significant Grade I listed Southwell Minster Church.
- 1.10 I have not repeated the description of the Appeal Scheme (including the amendments advanced through this appeal) and relevant planning history as these are contained within the Council's Statement of Case (C3) and the Statement of Common Ground (C4).
- 1.11 The application was refused by Members in accordance with the officer recommendation at the Planning Committee of Newark and Sherwood District Council on 2nd March 2021 (in a decision notice, A45, dated 4th March 2021). For ease of reference the reason for refusal states:

*"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.”*

### **Amendments to the Appeal Scheme**

- 1.12 As detailed at paragraphs 1.5-1.8 of the Council’s Statement of Case the Appellant has advanced amendments to the appeal scheme which are shown on the Site Layout and Planting Proposal Plan reference P18-2917\_12 Rev. M (A47). Following a period of consultation the Council presented an update report to its Planning Committee on 7<sup>th</sup> September 2021 (A44A and A44B) to notify the Committee of these amendments. The minutes from this Committee Meeting were agreed at the Planning Committee meeting on 5<sup>th</sup> October 2021 (A44C). The conclusion of the Committee was that their decision (and the reason for refusal set out above) would not have been different had the amended plans been submitted to them for consideration.
- 1.13 The Council’s assessment of these amendments is that, in the context of the overall planning balance and conclusion reported in the March 2021 Committee Report, the changes made by the Appellant are relatively minor when considering the scheme as a whole and overall do not

fundamentally avoid, minimise or outweigh the conflict that was identified in the original committee report. The Council therefore maintains the reason for refusal set out at paragraph 1.11.

- 1.14 Within this Proof of Evidence, where relevant, details of the 'Revised Scheme' are shown in [square brackets]. The term 'Appeal Scheme' where referring to the schemes, is used collectively.

## **Chapter 2: Planning Policy**

### **2.0 Planning Policy**

#### **The Development Plan for Newark and Sherwood**

- 2.1 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) and section 70(2) of the Town and Country Planning Act 1990, as amended, sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise.
- 2.2 For the purposes of this appeal, the Development Plan comprises the Amended Core Strategy (2019), the Allocations & Development Management DPD (2013) and the Southwell Neighbourhood Plan (2016).
- 2.3 In this case, the appeal scheme is contrary to policies of the development plan and the reason for refusal refers specifically to Core Policies 9, 10, 13 and 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).

#### **Newark and Sherwood Amended Core Strategy (The Core Strategy) (E1)**

- 2.4 The Amended Core Strategy was adopted in March 2019. The original Core Strategy was adopted in March 2011. The Plan review was carried out to ensure that the Core Strategy was in compliance with the NPPF and that the allocations, policies and targets continue to be up to date and relevant. The amended Core Strategy also amended the plan period to 2013 - 2033.
- 2.5 Chapter 2 of the Core Strategy outlines the Spatial Portrait of the District. Paragraph 2.7 states that, *“the move to a much wider use of more sustainable forms of energy is critical to the tackling of climate change.”* Paragraph 2.8 also identifies the Districts *“rich and diverse natural and built heritage, reflected in unspoilt and open countryside”* as being key to its



distinctiveness, stating that the District has an outstanding built heritage with over 1,300 listed buildings and structures and 47 Conservation Areas.

2.6 Paragraph 2.12 identifies a number of key issues and challenges that *“will need to be addressed by the Local Development Framework and will drive change in the District.”* Of those identified, which are particularly pertinent to consideration of this appeal, are as follows:-

- *Ensuring that the District can prepare for and respond to climate change; and*
- *Maintaining and enhancing the District's attractive and distinctive environment in urban and rural areas whilst accommodating change*

2.7 Chapter 3 (Vision and Objectives) identifies a vision and set of strategic objectives for the District and are intended to guide development to 2033. Of specific relevance to this appeal are the following: -

*“4. To protect and enhance the built and natural environment, heritage, biodiversity and landscape, giving additional protection to those areas and buildings of recognised importance;”* and

*“11. To produce a District that is sensitive to the environment where opportunities are taken to reduce our impact on the climate system, including the reduction of CO<sub>2</sub> emissions and encouraging the use of appropriate renewable energy solutions, and to adapt to the implications of climate change.”*

2.8 Whilst the Development Plan must be read as a whole, the Core Strategy policies that are of most relevance to this appeal are: Core Policy 9 (Sustainable Design), Core Policy 10 (Climate Change), Core Policy 13 (Landscape Character) and Core Policy 14 (Historic Environment).

2.9 **Core Policy 9** relates to sustainable development and states that the District Council will expect new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District. The policy states all new development should, inter alia,

*“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”.*

- 2.10 **Core Policy 10** relates to the issue of climate change and states that the District Council is committed to tackling the causes and effects of climate change and to delivering a reduction in the Districts overall CO<sub>2</sub> emissions. The Council, through its approach to development, will seek to encourage the provision of renewable and low-carbon energy generation through supporting new development *“where it is able to demonstrate that its adverse impacts have been satisfactorily addressed”*. The Policy states that new development proposals should, inter alia, minimise their potential adverse environmental impacts during their construction and eventual operation.
- 2.11 **Core Policy 13** promotes the protection and enhancement of valued landscapes as part of conserving and enhancing the natural environment. This policy states that based on the comprehensive assessment of the District’s landscape character provided by the Landscape Character Assessment Supplementary Planning Document (F5), the District Council will seek to secure new development *“which positively addresses the implications of relevant landscape Policy Zone(s) that is consistent with the landscape conservation and enhancement aims for the area(s) ensuring that landscapes, including valued landscapes, have been protected and enhanced”*.
- 2.12 **Core Policy 14** relates to the historic environment and states that the District has a rich and distinctive historic environment and that the Council seeks, *“the continued conservation and enhancement of the character, appearance and setting of the District’s heritage assets and historic environment [including Listed Buildings and conservation Areas] in line with their identified significance as required in national policy”*. Paragraph 5.68 states that the Council will ensure that any proposals concerning these heritage assets will secure their continued conservation and enhancement, contributing to the wider vitality, viability, regeneration of an area and reinforcing a strong sense of place.

**Newark and Sherwood Allocations & Development Management DPD (The ADMDPD) (E2)**

- 2.13 The ADMDPD was adopted in July 2013. It should be read in conjunction with the Amended Core Strategy. It sets out a number of allocations to meet the housing and employment needs of the District. It also includes a suite of Development Management policies to provide greater direction, help deliver specific allocations and assist in the day-to-day assessment of planning applications.
- 2.14 The Council is currently progressing a review of the ADMDPD. An Options Report has been published and consultation was undertaken 27th July – 21st September 2021. Any updates in the progress of this document will be brought to the attention of parties at the Inquiry.
- 2.15 Whilst the Development Plan must be read as a whole, the ADMDPD policies that are of most relevance to this appeal are: DM4 (Renewable and Low Carbon Energy Generation), DM5 (Design), DM9 (Protecting and Enhancing the Historic Environment) and DM12 (Presumption in Favour of Sustainable Development).
- 2.16 **Policy DM4** provides a policy framework in which to assess applications for renewable and low carbon energy generation schemes. The policy indicates that the decision maker should take a balanced approach to the assessment, *“where its benefits are not outweighed by detrimental impact from the operation and maintenance of the development and through the installation process upon [inter alia]:*
- 1. The landscape character or urban form of the district or the purposes of including land within the Green Belt arising from the individual or cumulative impact of proposals; [...]*
  - 3. Heritage Assets and or their settings;[...]*”
- 2.17 **Policy DM5** states that all proposals for new development shall be assessed against a series of criteria including consideration of, inter alia, local distinctiveness and character. The policy states that the rich local distinctiveness of the District's landscape and character of built form should be reflected in new development. In accordance with Core Policy 13, all development proposals will be considered against the assessments contained in the Landscape Character

Assessment Supplementary Planning Document. Furthermore, where local distinctiveness derives from the presence of heritage assets, proposals will also need to satisfy Policy DM9

- 2.18 **Policy DM9** states that *“all development proposals concerning heritage assets will be expected to secure their continued protection or enhancement, contribute to the wider vitality, viability and regeneration of the areas in which they are located and reinforce a strong sense of place.”* Impact on the special architectural or historical interest of Listed Buildings and the character and appearance of Conservation Areas will require justification in accordance with the aims of Core Policy 14.
- 2.19 **Policy DM12** states that *“A positive approach to considering development proposals will be taken that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Where appropriate, the Council will work pro-actively with applicants jointly to seek solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions within the district.”*

### **The Southwell Neighbourhood Plan (The SNP) (E3)**

- 2.20 The SNP was adopted in October 2016. It should be read in conjunction with the Amended Core Strategy and the Allocations & Development Management DPD.
- 2.21 The SNP policy that is most relevant to this appeal is: Policy E6 (Climate Change and Carbon Emissions).
- 2.22 **Policy E6** states that proposals for low carbon energy generation schemes will be supported provided they, inter alia, do not *“impact negatively on the local landscape character and the setting of the settlement in accordance with other development plan policies”* and do not *“impact negatively on the setting and character of any heritage asset in accordance with Neighbourhood Plan policy [DH3]”*.

- 2.23 The Development Plan is in accordance with the NPPF and should be afforded full weight in determination of this appeal. The policies in the development plan and associated supplementary planning documents are supportive of renewable energy developments and recognise the importance of addressing climate change. This support however is not unequivocal and a balance must be struck, taking into consideration environmental considerations, including amongst other matters, the impact of the proposals on landscape character and visual amenity and heritage assets.

### **Other Material Considerations (including relevant legislation)**

#### **The National Planning Policy Framework (The NPPF) (D1)**

- 2.24 The National Planning Policy Framework (NPPF) was most recently updated in July 2021. It sets out the Government's planning policies for England and how these should be applied. At the heart of the NPPF is a presumption in favour of sustainable development and paragraph 8 sets out three overarching objectives to achieving this: economic, social and environmental (Chapter 2).
- 2.25 Whilst the document must be read as a whole, the following chapters are considered most relevant to the appeal: Chapter 14 (Meeting the challenge of climate change, flooding and coastal change), Chapter 15 (Conserving and enhancing the natural environment) and Chapter 16 (Conserving and enhancing the historic environment).
- 2.26 **Chapter 14** addresses meeting the challenge of climate change, flooding and coastal change. Paragraph 152 states, inter alia, that the planning system should support the transition to a low carbon future in a changing climate. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources [...] and support renewable and low carbon energy and associated infrastructure.
- 2.27 Paragraph 153 requires Local Planning Authorities to adopt pro-active strategies to mitigate and adapt to climate change. Footnote 53 makes clear that decisions should be taken in line

with the 2008 Climate Change Act; i.e. a core provision of which is the net reduction of carbon dioxide emissions to at least 100% lower than the 1990 baseline by 2050.

- 2.28 In line with the above, paragraph 158 states that when determining planning applications for renewable and low carbon development, local planning authorities should:
- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
  - b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.
- 2.29 **Chapter 15** (Conserving and Enhancing the Natural Environment) also states that planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia) (at paragraph 174):
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
  - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; [...].
- 2.30 Paragraph 175 goes on to explain that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.
- 2.31 **Chapter 16** seeks to conserve and enhance the historic environment. Paragraph 189 states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the

quality of life of existing and future generations. Paragraph 197 states that in determining applications, local planning authorities should, inter alia, take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.

- 2.32 Paragraph 199 also states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It goes on to clarify that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 2.33 Paragraph 200 states, inter alia, that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 2.34 Paragraph 202 then goes on to note, of relevance, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced.

#### **National Planning Practice Guidance (The PPG) (D2)**

- 2.35 The PPG sets out further central government policy in relation to development management decisions. The following categories are considered to be of most relevance to the appeal: Climate Change, Natural Environment, Renewable and Low Carbon Energy and Historic Environment.
- 2.36 The guidance on **Climate Change** explains the importance of considering climate change (paragraph 001, reference ID: 6-001-20140306) and the climate change legislation that is relevant to decision making.

- 2.37 The **Natural Environment** guidance considers key issues in implementing policy to protect and enhance the natural environment. Paragraph 036 (reference ID: 8-036-20190721) explains the importance of recognising the intrinsic character and beauty of the countryside and how policies should provide for the conservation and enhancement of landscapes. This section also explains how the cumulative impacts of development on the landscape need to be carefully considered.
- 2.38 The guidance on **Renewable and Low Carbon Energy** (paragraph: 003, reference ID: 5-003-20140306) states that: *“The National Planning Policy Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. As with other types of development, it is important that the planning concerns of local communities are properly heard in matters that directly affect them.”*
- 2.39 Paragraph 010 of this guidance states that renewable energy developments should be acceptable for their proposed location. Paragraph 013 goes on to provide specific policy guidance on planning considerations that should be applied to the determination of applications for large scale solar farms. The pertinent factors listed, are as follows:
- *“[...] the proposal’s visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
  - *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*



- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *The approach to assessing cumulative landscape and visual impact of large scale solar farms is likely to be the same as assessing the impact of wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero [...]*

2.40 Paragraph 13 of the **Historic Environment** guidance (Reference ID: 18a-013-20190723) is also relevant which advises that a thorough assessment of the impact on the setting of heritage assets needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Setting is not itself a heritage asset, nor a heritage designation, although land comprising a setting may itself be designated. Its importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance.

## **Energy**

2.41 **EN-1: Overarching National Policy Statement for Energy** (July 2011) (D3A) is part of a suite of National Policy Statements (NPS) issued by the Secretary of State for Energy and Climate Change. Its primary purpose is to set out the Government's policy for delivery of major energy infrastructure which is applied to decisions for Nationally Significant Infrastructure Projects. However, it is confirmed that this document can be a material consideration in the determination of planning applications.

2.42 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 with the need for new renewable energy electricity generation being urgent. The NPS 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.

- 2.43 In September 2021 a draft amendment to this NPS was issued (D3B) to align this policy statement with the policies set out in the *Energy White Paper: Powering our net zero future* (December 2020) and support the investment required to build the infrastructure needed to transition to net zero. The 2020 Energy White Paper sets a long-term strategic vision for the UK's energy system, consistent with net zero emissions by 2050.
- 2.44 **EN-3: National Policy Statement for Renewable Energy Infrastructure** (July 2011) (D4A) sets out the national policy specific to renewable energy projects. EN-3 should be read in conjunction with EN-1 and provides the primary basis for decisions for Nationally Significant Infrastructure Projects.
- 2.45 Similarly 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*" (paragraph 1.1.1).
- 2.46 Similarly to EN-1, in September 2021 a draft amendment to this NPS was issued (D4B) to align this policy statement with the policies set out in the Energy White Paper (2020).

#### **UK Government Solar Strategy 2014 (D5)**

- 2.47 In 2014, the Government published its Solar PV Roadmap. This sets out its ambition for the technology as an important part of the country's energy mix. In doing so, the strategy underlines the importance of focusing growth on domestic and commercial roof space and previously developed land. It also makes clear that new solar installations need to be sensitively placed. This stance has been reinforced in a letters, speeches and written statements issued by ministers. These recognise the importance of solar PV energy in generating power as well as the potential growth of large scale solar farms and their impacts. Support is outlined for the installation of solar PV panels on existing buildings and previously developed land and that where proposals do come forward, they should be "*appropriately*

*sited, give proper weight to environmental considerations such as landscape and visual impact, heritage and local amenity, and provide opportunities for local communities to influence decisions which affect them” (paragraph 6.iii).*

#### **The Climate Change Act 2008 (D8/D9)**

- 2.48 The Climate Change Act 2008 is directly cited within the NPPF. The Act initially looked ahead to reductions in the UK carbon dioxide emissions by at least 80% in 2050 from 1990 levels, with an interim target of 34% by 2020; and made these targets legally binding on the Government. However, the Act was amended in 2019 to commit the UK to ‘net zero’ by 2050 (Section 2 of The Climate Change Act 2008 (2050 Target Amendment) Order 2019 (SI 2019/1056)) and in April 2021 the UK further committed to reducing emissions by 78% compared with 1990 levels by 2035 in the sixth Carbon Budget.

#### **Written Ministerial Statement on Solar Energy: protecting the local and global environment (March 2015) (D6)**

- 2.49 This Ministerial statement, amongst other matters, discusses solar energy and protecting the local and global environment following the publication of the UK Government Solar Strategy. The statement responds to public concerns relating to large-scale solar farms and asserts that meeting energy goals should not be used to justify the wrong development in the wrong location and that protecting the global environment should not be “*an excuse to trash the local environment*”. The statement goes on to reference the abovementioned guidance published in the PPG in relation to assessing large scale ground mounted solar photovoltaic farms.

#### **The Climate Crisis: A Guide for Local Authorities on Planning for Climate Change (D19)**

- 2.50 This Royal Town Planning Institute and Town and Country Planning Association guide, published in October 2021 in the run up to the United Nations Climate Change Conference of the Parties (COP26), explains how the planning system can help communities face the climate crisis. The guide makes clear the vital importance of the planning system in designing places which cut carbon through the promotion of energy efficiency, sustainable transport and

renewable energy. The new guidance also seeks to place the Government's ambitions for net zero at the heart of the planning system.

## **Heritage**

### **Planning (Listed Buildings and Conservation Areas) Act 1990 (D20)**

- 2.51 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In addition, Section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area (CA). In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.
- 2.52 In heritage conservation, there are two key legal requirements that apply to decisions concerning listed buildings and conservation areas. Simply put, these legal objectives require special regard to the desirability of preserving these types of designated heritage assets (sections 16, 66 and 72 of the Act). The courts have said that these statutory requirements operate as a paramount consideration, '*the first consideration for a decision-maker*' (Barnwell Manor Wind Energy Ltd V East Northamptonshire District Council & ORS [2014] EWCA Civ 137). Planning decisions require balanced judgement, but in that exercise, there must be a recognition of, and respect to, the weight that parliament wishes to place on an objective such as heritage asset conservation. The protection of listed buildings and conservation areas is regarded as highly important, and that should not be undervalued out of respect for both the law and democratic will.

### **Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (D7)**

- 2.53 This Historic England Advice Note (February 2021) sets out the potential impacts on the historic environment of commercial renewable energy proposals, which could occupy large areas of land or sea. It is written to support the implementation of historic environment

legislation, national policy and related guidance and to assist those involved in commercial renewable energy development to enable them to give appropriate consideration to heritage issues.

- 2.54 Paragraph 36 explains that any harmful impact on the significance of a designated heritage asset requires a clear and convincing justification, detailing the benefits of the proposal and enabling them to be weighed against any harm that would be caused to the historic environment. In this regard, NPS EN-3 notes the positive role that large-scale renewable projects play in the mitigation of climate change, the delivery of energy security and the urgency of meeting the national targets for renewable energy supply and emissions reductions. However, this Advice Note explains that determining the balance between harm and benefits is done on a case by case basis, informed by evidence and assessment (as described in national policy) and taking account of a range of factors and relevant policy and guidance (including other relevant advice in this advice note).
- 2.55 Paragraphs 48-55 explains the impacts renewable energy developments can have within the setting of heritage assets that can affect significance, with paragraph 52 highlighting that the contribution that setting makes to the significance of a heritage asset does not depend on there being public rights or an ability to access or experience that setting. Further to this, paragraph 53 explains that whilst the design of a scheme can help to mitigate the visual impact of a proposal, for example through the use of landscape bunds or tree planting, such measures need very careful consideration as they are not appropriate in all situations within the historic environment. This is reiterated in paragraph 70.

**Historic England Good Practice Advice in Planning 2 - Managing Significance in Decision-Taking in the Historic Environment (G1)**

- 2.56 This Historic England Advice Note (March 2015) sets out useful guidance on assessing the significance of heritage assets. It also provided information on good practice in implementing historic environment policy in the NPPF and the related guidance given in the PPG.

### **Historic England Good Practice Advice in Planning 3 - The Setting of Heritage Assets (G2)**

- 2.57 This Historic England Advice Note (December 2017) sets out guidance, against the background of the NPPF and the related guidance given in the PPG on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites, areas, and landscapes. It gives general advice on understanding setting, and how it may contribute to the significance of heritage assets and allow that significance to be appreciated, as well as advice on how views contribute to setting.

### **Institute for Historic Building Conservation Principles of Cultural Heritage Impact Assessment in the UK (G5)**

- 2.58 This document, published in April 2021, also provides guidance for cultural heritage practitioners in regard to the principles of Cultural Heritage Impact Assessment which include understanding cultural heritage assets and evaluating the consequences of change.

## **Supplementary Planning Documents (SPD)**

### **Newark and Sherwood Landscape Character Assessment SPD (The LCA) (F5)**

- 2.59 The LCA was adopted in December 2013 to assist decision makers in understanding the potential impact of proposed developments on the character of the landscape. It provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The SPD recognises a series of Policy Zones across the 5 Landscape Character types represented across the District. The appeal site is within the Mid-Nottinghamshire Farmlands area and spans three policy zones:
- MN 37: Halam Village Farmlands with Ancient Woodlands (approx. 50% of the site area)
  - MN 38: Halloughton Village Farmlands (approx. 40% of the site area)
  - MN 39: Thurgarton Village Farmlands with Ancient Woodland (approx. 10% of the site area)

### **Halloughton Conservation Area Designation Statement (G6)**

- 2.60 This document was published in 1970 and defines the extent of Halloughton which is considered to possess the necessary character and which it is considered desirable to protect. The Appraisal states the purpose of the designation area is to avoid any destruction of the character and style peculiar to Halloughton and to encourage future development to be handled in a sympathetic manner.

### **Evidence Base Documents**

#### **Newark and Sherwood District Council Annual Monitoring Reports (AMR)**

- 2.61 The 2021 Annual Monitoring Report covering the period from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021 has yet to be published. However from reviewing the Council's planning permission records there were 7 permissions approved for the installation of renewable energy in the form of photovoltaic panels, biomass boilers, air and ground source heat pump schemes over this period with a capacity of over 52 MW (see Appendix A & B).
- 2.62 The 2020 Annual Monitoring Report covering the period from 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020 has also yet to be published. However from reviewing the Council's planning permission records there were 9 permissions approved for the installation of renewable energy schemes over this period with a capacity of over 154 MW (see Appendix A & B).
- 2.63 The most up to date AMR was published 2019 (E6) and covers the period from 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019. Kilo Watt (KW) hours of renewable energy installed in the District is a monitoring indicator for Core Policy 10 (Climate Change). Page 17 of the AMR states that there were 9 permissions approved for the installation of renewable energy in the form of photo voltaic panels, biomass boilers and hydropower schemes with a capacity of over 3 Mega Watts (MW) during the period 2018/9 (including small scale domestic schemes).
- 2.64 The AMR published in 2018 covers the period from 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018 (E7). During this monitoring period 8 permissions were approved for the installation of renewable

energy (in the form of photo voltaic panels, biomass boilers and a hydropower screw turbine) with a capacity of over 114.5 MW (see p.19 of E7).

2.65 The AMRs do not all use the same indicator for CP10, however in summary, a review of all consented renewable energy schemes in the District (excluding small scale domestic schemes) since 2011 (see Appendices A & B) shows the following:

<b>Monitoring Period (April-March)</b>	<b>No. of Renewable Schemes Consented</b>	<b>Capacity (MW)</b>	<b>No. of which are Solar PV</b>	<b>Capacity (MW)</b>
2011/2012	20	91.83	11	88.53
2012/2013	11	10.02	6	0.99
2013/2014	12	13.13	3	10.01
2014/2015	17	54.03	8	47.75
2015/2016	12	39.02	9	37.82
2016/2017	5	7.12	3	3.73
2017/2018	9	115.35	2	113.37
2018/2019	5	3.18	3	1.25
2019/2020	9	154.94	4	149.99
2020/2021	7	52.53	2	49.93

*NB: The table above does not include small scale domestic renewable energy proposals*



## **Chapter 3: The Case for Newark & Sherwood District Council**

### **3.0 The Case for Newark & Sherwood District Council (NSDC)**

#### **Reason for Refusal**

- 3.1 The appeal was refused by the Council for a single reason as set out at paragraph 1.11. Whilst the Council asserts that this reason should be read as a whole, three main issues arise:
- i. The Landscape Character and Visual Impact of the Proposed Development (including impacts Public Rights of Way);
  - ii. The Heritage Impact of the Proposed Development (including the impact on the setting and experience of Halloughton Conservation area and the setting of assets within it (particularly, but not limited to the Church of St James (Grade II), the Manor House (Grade II\*), the Brackenhurst complex (all Grade II) and South Hill House (Grade II)); and
  - iii. The Planning Balance – whether the public benefits arising from the Proposed Development outweigh the Landscape Character and Visual Impact and Heritage harm identified in respect of points i and ii above.
- 3.2 In this case, it is necessary to balance the public benefits derived from the delivery of this renewable energy scheme with the level and extent of harm that would arise should the proposed development be granted consent.
- 3.3 Section 8 of the Statement of Common Ground (C4) clarifies that Newark & Sherwood District Council raise no objections to matters relating to, inter alia, the use of agricultural land, highways, access and public rights of way, flood risk, archaeology, ecology, arboriculture and amenity. The SoCG confirms that the impacts associated with a number of these matters can be largely mitigated and addressed, where necessary, through the use of appropriately worded planning conditions (as set out in C9).

- 3.4 The following section of this proof of evidence will break down the detail of the reason for refusal, explain the identified harms as evidenced by Mrs Jones and Mr Partington in their separate Proofs of Evidence and the breaches of the Development Plan. It will also examine the other material considerations relevant to the determination of this Appeal, the public benefits attributable to the scheme and set out all elements that feed into the planning balance exercise.

### **Climate Change Context**

- 3.5 Before exploring the identified harms of the Appeal Scheme, I firstly consider it important to explain the climate change context and the progress being made to meeting climate change targets.
- 3.6 There is a raft of policy support at international, national, and local level (identified in brief in Chapter 2) which aims to combat climate change and to provide energy security. I recognise that the delivery of solar photovoltaic farms, in addition to other renewable technologies, will have a positive role in tackling climate change, meeting energy targets and contributing towards a diverse energy mix. In terms of renewable energy generation, the Appeal Scheme accords with the broad thrust of national and local policy which seeks to secure increased energy supply from renewable sources. I do not challenge the need to deliver appropriate renewable energy projects (in accordance with the NPPF) and it is accepted that NSDC has an important role to play, through the planning system, in their delivery. The public benefits associated with the delivery of this renewable energy scheme are fully acknowledged.
- 3.7 It is acknowledged that NSDC declared a Climate Emergency in July 2019. In doing so the Council formally recognised the urgency and significance of its environmental ambitions – for the Council as an organisation and for the wider district. In September 2020 the Council published a Climate Emergency Strategy (E5) which sets out a pathway to a sustainable future for Newark and Sherwood District Council. The Strategy sets a number of actions which provide a robust and measurable way for the Council to take action to reduce its operational carbon emissions, whilst driving change in the broader District. However it is worthy of note that this document focuses on the operational actions the Council can take to reduce its own

carbon emissions as an organisation rather than setting out its approach to assessing planning applications for renewable energy, which is covered by the Development Plan.

- 3.8 While the United Kingdom has entered into a series of legally binding targets for the reductions in carbon emissions, the he NPPF does not establish explicit targets for the deployment of renewable energy, and the Planning Policy Guidance states that there is no quota which local policy needs to achieve. Notwithstanding this, it is without doubt that planning has an important role to play to contribute towards the realisation of the nationally legally binding commitments.
- 3.9 The Appeal Scheme would have a maximum installed capacity of 49.9MW. The development would therefore make a tangible contribution towards increasing the amount of energy generated from renewable sources. In determining the weight to be afforded to this contribution, I am mindful that NPPF paragraph 158 advises that even small-scale projects can make a valuable contribution to cutting greenhouse gas emissions and that Local Planning Authorities should approve the application if its impacts are, or can be made, acceptable. It must however be emphasised that there is no suggestion in national or local planning policy that the pursuit of renewable energy targets overrides other environmental considerations.
- 3.10 The Core Strategy aims to reduce CO<sub>2</sub> emissions and encourage the use of renewable energy solutions. However, there is no regional or local renewable energy target identified within the Development Plan. Notwithstanding this however, it is accepted that a lack of local targets does not impact upon the need to address national renewable energy targets and that the delivery of renewable energy development against national targets should be given significant weight. It is also recognised that the targets identified nationally are not intended to be maxima and that further renewable energy schemes must be delivered to ensure that renewable energy targets are met.
- 3.11 NSDC have approved a number of renewable energy schemes in recent years and it accepts that it has a role in contributing towards CO<sub>2</sub> reductions through the delivery of renewable energy proposals, as required by NPPF. A review of all renewable energy schemes, granted

consent or pending consideration in the District since 2011 has been carried out and is outlined in Appendices A - C.

- 3.12 The table below provides an overview of all consented renewable energy schemes in the District (excluding small scale domestic schemes) which have been approved since 2011.

Type	Quantum (MW)
Consented Photovoltaic Schemes	503.29
Other Consented Renewable Schemes	37.89
Total	541.18

- 3.13 Appendix C identifies an additional 49.9MW photovoltaic scheme in the pipeline which is currently pending consideration and three further 49.9MW schemes which have requested EIA screening opinions and are currently subject to public consultation prior to formal submission. It is apparent that photovoltaic schemes will continue to make an important contribution to meeting renewable energy targets and achieving energy security. Although it is noted that only limited weight should be attributed to the one proposal that is pending consideration due to its position within the planning process.

### **The Landscape Character and Visual Impact of the Appeal Scheme**

- 3.14 The reason for refusal identified by the District Council relates in part to the identified impact of the development on the landscape character and visual amenity of the area, including the impact of the development on sensitive visual receptors as identified at paragraph 4.8 of the Council's SOC (C3).
- 3.15 In determining the level of impact on landscape character and visual impact, I rely entirely on the evidence presented by Mrs Helen Jones (C8B). The evidence of Mrs Jones assesses the

impact of the development upon the character of the landscape and its overall visual impact. The key themes of this evidence are outlined below.

- 3.16 For the avoidance of doubt, as explained within the Council's Statement of Case (C3), whilst the reason for refusal set out at paragraph 1.11 only explicitly references PRoW Southwell 74 and Southwell 43, it is evident from the Committee Report (A43A) when read as a whole and the comments made by Mrs Jones during the course of the planning application (B21A, B, C), that the impact of the development on all of the sensitive receptors identified at para. 4.8 of Council's SOC was considered in reaching the conclusion regarding the overall visual effect of the scheme.
- 3.17 The evidence presented by Mrs Jones (C8B) demonstrates that, in the context of the identified landscape character and visual impact and harm, the Appeal Scheme (and/or the Revised Scheme presented) would result in a long-term detrimental impact on the landscape character and visual amenity of the area.
- 3.18 In respect of landscape impact, Mrs Jones concludes that the Appeal Scheme would result in a moderate adverse scale of effect on land cover for the forty-year lifetime of the Scheme. This identified scale of effect on land cover is a matter of agreement between parties (see A13A/B and para. 8.50 of the SoCG (C4)).
- 3.19 Mrs Jones concludes that the Scheme would result in a major adverse scale of effects on the local landscape character for the Mid Nottinghamshire Farmlands Policy Zones 37, 38 and 39 [PZ39 is omitted from the Revised Scheme] for the forty-year lifetime of the scheme which are concluded by Mrs Jones to be significant impacts [save for PZ39]. These identified scale of effects on landscape character are a matter of agreement between parties (see A13A/B and para. 8.51 of the SoCG (C4)).
- 3.20 For clarity, as explained within the email dated 4<sup>th</sup> November 2021 (C11) the Council's SoC (C3) contained a typographical error at para. 4.17 in respect of the level of landscape effect identified on the landscape character of Policy Zone 38. This should have read "[...] a major

*scale of landscape effect [...]” as set out in Mrs Jones’ evidence and confirmed at para 4.10 of the SoC (and as is also evident from the reason for refusal).*

- 3.21 With regard to visual effects, it is agreed at para. 8.52 of the SoCG that the Appeal Scheme would result in some adverse visual effects during the Construction Stage, Year 1 and Year 10 of the development. Having reviewed the conclusions of the Appellant’s submitted LVIA and Addendum (A13A, A13B) and the conclusions of Mrs Jones’ evidence there appears to be common ground on a number of Viewpoints (see para 5.1.3 of C8B). The scale of effect on Viewpoints 1, 2 and 3 are in dispute.
- 3.22 Mrs Jones concludes that there would be significant adverse effects on Viewpoints 1, 2, 3, 12, 14 and 15 as a result of the Appeal Scheme [Viewpoints 1, 2, 3, 14 and 15 as a result of the Revised Scheme]. These Viewpoints relate to well used public rights of way (PRoW Bridleway 209/74/1, PRoW Footpath 209/42/1, PRoW Footpath 209/43/1 and Cotmoor Byway) and in some cases would extend until Year 10 of the Scheme.
- 3.23 Mrs Jones also concludes that whilst the mitigation planting proposed would assist in screening the Scheme, there would remain a significant change in views of the wider landscape, both from within and outside the site, caused by the proposed infrastructure itself *and* the mitigation planting proposed. The mitigation planting itself would also close down or block middle distance views, creating an effective change in the experience/perception of this sensitive landscape. Furthermore, Mrs Jones also concludes that the mitigation planting proposed would generate a further negative effect on the local landscape character.
- 3.24 It is therefore considered that the Appeal Scheme would fail to conserve and enhance the area’s landscape character and visual amenity and consequently would be harmful to the character, appearance and visual perception of the area.
- 3.25 The Appeal Scheme would therefore be contrary to Core Policies 9 and 13 of the CS, the policy actions identified within the corresponding Landscape Character Assessment, Policy E6 of the SNP, Chapter 15 of the NPPF and the guidance contained within the PPG.

### **The Heritage Impact of the Appeal Scheme**

- 3.26 The reason for refusal identified by the District Council also relates to the identified heritage impact of the development, including the impact of the development on Listed Buildings as identified at paragraph 4.20 of the Council's SOC (C3).
- 3.27 In determining the level of impact of harm experienced to the setting of these heritage assets, I rely entirely on the evidence presented by Mr Adam Partington (C8C). The evidence of Mr Partington assesses the impact of the development upon the setting of nearby heritage assets and presents conclusions about the impact on their significance. The key themes of this evidence are outlined below.
- 3.28 For the avoidance of doubt, as explained within the email dated 25<sup>th</sup> October 2021 (C10), the reason for refusal in respect of the impact on Listed Buildings within Halloughton is, in the Council's view, broader than the two assets explicitly mentioned (Grade II Church of St James and Grade II\* Halloughton Manor Farmhouse). The identification of less than substantial harm on the setting of "*listed buildings*" (plural) within Halloughton Conservation Area was not exclusive to those two buildings – they were simply "*notably*" (not *exclusively*) mentioned. This is clearly expressed by the language used in the reason for refusal.
- 3.29 Further, it is evident from the Committee Report (A43A) and comments made by the Conservation Officer (B1A, B, C) when read as a whole that the impact of the development on all Listed Buildings within Halloughton was considered in reaching the conclusion that the Scheme would result in less than substantial harm to Halloughton Conservation Area (CA) and all listed buildings therein (noting the assets are listed individually within both documents).
- 3.30 The evidence provided by Mr Partington provides a description of the designated heritage assets in the vicinity of the Appeal Site, describes their significance and importance in addition to explaining the changes proposed and providing an assessment of the impact of the Appeal Scheme.

- 3.31 A very small section of the Appeal Site, comprising the site access from the village's lane, lies within the Halloughton Conservation Area. No other part of the Site lies within, or forms part of, any designated or non-designated heritage asset. However, the Appeal Scheme extends nearly the full width (broadly east/west) of the CA, before turning north, passing beyond the parish boundary a further c.1.3km north, stopping c.330m short of the B6386.
- 3.32 The evidence presented by Mr Partington demonstrates that the Appeal Scheme would result in a less than substantial degree of harm, at the higher end of the scale, to the following heritage assets over the duration of its installation, use and decommissioning.
- Halloughton Conservation Area;
  - Halloughton Manor Farmhouse (Grade II\*, List ID: 1178664);
  - Church of St James (Grade II, List ID: 1045555); and
  - Barn at Bridle Road Farm (Grade II, List ID: 1178708).
- 3.33 Mr Partington also concludes that the Appeal Scheme would result in a less than substantial degree of harm, at the lower end of the scale to the following heritage assets over the duration of its installation, use and decommissioning:
- Pigeoncote, Granary and Stable Block at Manor Farm (Grade II, List ID: 1370180);
  - Barn at Halloughton Manor Farm (Grade II, List ID: 1045556);
  - Brackenhurst Hall and Attached Coach House, Orangery and Garden Wall (Grade II, List ID 1369927);
  - Gateway and Railings at Brackenhurst Hall (Grade II, List ID: 1289246);
  - Lodge to Brackenhurst Hall (Grade II, List ID: 1213102);
  - Garden Walls and Potting Sheds 100 Metres North East of Brackenhurst Hall (Grade II, List ID: 1046108); and
  - South Hill House (Grade II, List ID: 1213124).
- 3.34 Furthermore, Mr Partington concludes that subsequent to its decommissioning, the Appeal scheme would have a low adverse residual effect upon the significance of the Halloughton Conservation Area and those designated heritage assets within it including the Grade II\* Manor Farm House and Grade II Bridle Road Farm.



- 3.35 Mr Partington concludes that in bringing about a degree of harm to the character and appearance of the Halloughton Conservation Area, the Appeal scheme (both Refused and Revised Schemes) does not align with s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy 14 of the Amended Core Strategy (2019) and Policies DM9 of the Allocations and Development Management DPD (2013).
- 3.36 Mr Partington further concludes that in bringing about a degree of harm to the ability to experience the designated heritage assets of the Halloughton Conservation Area, Grade II\* Manor Farm House, Grade II Barn at Manor House Farm, Grade II Pigeoncote, Granary and Stable Block, Grade II Barn at Bridle Road Farm, Grade II Church of St James, Grade II South Hill House, Grade II Brackenhurst Hall, Grade II Gateway and Railings, Grade II Lodge to Brackenhurst Hall and Grade II Garden Walls and Potting Sheds from within their settings, the Appeal Scheme (both Refused and Revised Schemes) does not align with s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy 14 of the Amended Core Strategy (2019) and Policies DM9 of the Allocations and Development Management DPD (2013).
- 3.37 In accordance with Paragraphs 189 and 199 of the NPPF great weight should be given to the conservation of designated heritage assets which should be preserved in a manner appropriate to their significance. The more important the asset, the greater the weight should be.
- 3.38 Accounting for the magnitude of the development and the low to high degrees of less than substantial harm brought about to multiple heritage assets, including the Halloughton Conservation Area and Grade II\* Manor Farm House, both individually and cumulatively, Mr Partington concludes that a very high degree of weight should be afforded against the Appeal Scheme (both Refused and Revised Schemes).

### **Duration of Impact and Consideration of Permanence**

- 3.39 Paragraph 031 of the Renewable and Low Carbon Energy section of the NPPG outlines that the temporary nature of solar farms is a factor that must be considered when assessing the impacts of large scale ground-mounted solar photovoltaic farms. This is also acknowledged by Historic England as a key consideration in assessing the impact of such developments on the setting of heritage assets (see D7).
- 3.40 The duration of this development would be forty years. The *temporary* nature of the Appeal Scheme is emphasised by the Appellant in support of the scheme.
- 3.41 Historic England in their 'Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15' (D7) state at paragraphs 63-64 that *"the duration of the development and its associated impacts are often key points that affect the settings of heritage assets. The intended engineering life of many renewable energy developments is such that the change they will bring to their site and locality will last for 25-30 years, effectively a generation and potentially not perceived by local residents as temporary. Even if it is eventually possible to return the area to its former use or appearance, the direct impacts of a development on some elements of the historic environment (for example archaeological remains) will be irreversible."* Whilst this advice considers the reversibility of such schemes, the advice does not suggest that reversibility should be regarded as a justification for '*temporary*' harmful impacts upon heritage assets.
- 3.42 In my view, forty years would be long term. Forty years is more than a generation and therefore should not be regarded as an insignificant amount of time. The scheme would have a marked impact on the locality over a considerable time period. The evidence presented also demonstrates that the Appeal Scheme would cause long term adverse impacts, and thus harm, to landscape character and visual amenity and less than substantial harm to the setting of the Halloughton Conservation Area and a number of Listed Buildings (Grade II\* and II). In such circumstances I therefore consider the argument that the development is temporary and reversible, and thus any impact is mitigated, should not merit material weight in the overall planning balance. I therefore consider this matter to be neutral in the planning balance.

## **Other Material Considerations**

- 3.43 In the overall planning balance, there are a number of material considerations that should be considered when assessing the merits of the scheme. I will discuss each in turn below.

### **Generation of Renewable Energy**

- 3.44 It is agreed at para. 8.8 of the SoCG (C4) that the 49.9MW Scheme would provide electricity equivalent to the average electrical needs of approximately 12,000 typical UK homes annually. This would result in significant savings of carbon dioxide emissions during its anticipated lifetime (approx. 20,690t of CO<sub>2</sub> per annum as estimated by the Appellant in Core Document A42).
- 3.45 As explained in Chapter 2, both national and local planning policy place great emphasis on the creation of energy through renewable schemes. However, the NPPF and local policies do not provide blanket support for all renewable energy developments, as the support is provided specifically in the context where the impacts of the development are (or can be made) acceptable. As such, whilst renewable energy production is supported in principle, this is only provided developments are appropriately sited and proper weight is given to environmental considerations such as (but not limited to) heritage, landscape and visual impacts which enables the achievement of sustainable development in the round.
- 3.46 Nevertheless, any renewable energy production is welcomed and this is a substantial benefit of the scheme in terms of energy production. In the context of the aforementioned legally binding targets and in accordance with the provisions of the NPPF, significant weight attaches to this aspect of the Appeal scheme.

### **Landscape Enhancements**

- 3.47 The Appeal scheme includes additional landscape planting as part of the mitigation strategy for the development. The Appellant suggests at paragraph 9.12 of their statement SOC (C2) that this should weigh in favour of granting planning permission.

3.48 Mitigatory landscape planting reflects common practice in the development of solar farms and must be balanced against the impacts identified on the landscape character and visual amenity of the landscape from the development as a whole.

3.49 The evidence presented by Mrs Jones and Mr Partington also explain that additional planting can in itself result in uncharacteristic impacts on landscape character and visual amenity and the heritage context. Mrs Jones' evidence (C8B) explains that (my emphasis added):

*"7.5.6 Furthermore, I have also identified that the necessary vegetative screening to cover security fencing, solar panels battery containers and other infrastructure of both the Refused Scheme and Revised Scheme would not be characteristic of the general existing hedge systems within this landscape character area. While this may well eventually successfully screen a majority of the views of the development, the perception of the Landscape Character as you walk through it will be changed, and physically reinforced by the incongruous outgrown hedge height, closing down views of the wider landscape and spatial perception generating a further negative effect on the Landscape Character."*

Mr Partington's evidence (C8C) explains that in respect of the impact on Halloughton Conservation Area (my emphasis added):

*"4.2.54 The retention of hedgerows would sustain a key element of the field morphology, however proposed areas of tree planting to F3, F4 and F5 [F3 and F4] would reduce the integrity of the sensitive agricultural landscape, both over the duration of the installation and in perpetuity. [...]*

*4.2.55 [...] Over the duration of the schemes and seasonally, existing and proposed tree planting may screen parts of the array within views, however their depth and agricultural character will remain altered or obscured either by the array or mitigation planting."*

In respect of the impact on Barn at Bridle Road Farm (Grade II) within Halloughton Conservation Area Mr Partington explains (my emphasis added):

*“4.3.125 The retention of hedgerows would sustain a key element of the field morphology, however proposed areas of tree planting to F3, F4 and F5 [F3 and F4] would reduce the historic integrity of the agricultural landscape, both over the duration of the installation and in perpetuity.”*

3.50 Accordingly in my view only moderate weight attaches to this proposed mitigation planting.

### **Ecological Enhancements**

3.51 The Appeal scheme is supported by a Biodiversity Management Plan (BMP) (A8D) which explains that the development could, through the biodiversity enhancements and the creation of habitats as set out within the accompanying reports (A8 A-F), result in biodiversity net gains being achieved across the site.

3.52 The Ecology Assessment (A8 A-F) submitted with this application concludes that an overall net gain of 36.78% in habitat units could accompany the proposed development with a 23.68% net gain in hedgerow units. This net gain could be achieved through the proposed landscape planting, habitat enhancements and long-term management as set out in the BMP and Site Layout and Planting Proposals Plan (A23D/A47).

3.53 Ecological mitigation, management and enhancement reflects common practice in the development of solar farms. It also accords with the expectations of local and national planning policy for developments to contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains where possible. Accordingly only moderate weight attaches to this.

3.54 Furthermore, it is also noted that the land owner chose to plant approx. 7,989 trees in January 2021 along the southern boundary of the site (which was reported during the course of the application in A21) which formed part of the overall planting strategy. This planting was undertaken by the land owner of their own accord and in my view should not be counted as a direct benefit that would be brought about by the Appeal Scheme itself, given it has already been undertaken outside of any permission. Consideration of the ecological benefits and

enhancements overall must therefore be considered in the context of the planting that has already been undertaken outside of the planning process, the impact of the development itself and the expectation for all developments to minimise impacts on biodiversity and provide net gains where possible.

### **Economic Benefits**

- 3.55 The Appellant advances that the Appeal Scheme would result in £30 million of private capital investment in renewable energy infrastructure, would provide employment during the short construction phase and thereafter in the management and maintenance of the site (estimated creation of 70-80 jobs during construction) in addition to a business rates contribution to the District of approx. £190,000 (A42).
- 3.56 It is accepted that the construction of a solar farm of this scale will give rise to certain socio-economic benefits. Whilst these are recognised, they would be attributable to any similar development anywhere in the Council's area including development that can adequately mitigate the detrimental impacts identified.
- 3.57 Accordingly only moderate weight attaches to these socio-economic benefits.

### **Flooding and Drainage**

- 3.58 The Appellant suggests that the drainage works proposed as part of the overall sustainable drainage scheme should weigh in favour of the scheme in the planning balance as there would be some off-site betterment.
- 3.59 The Flood Risk Assessment (FRA) (A9) at paragraph 1.1.2 states that the drainage strategy presented is to mitigate against the potential downstream impacts of the development. The downstream flood risk alleviation measures proposed are covered in paragraph 6.3, however the detailed design is yet to be finalised. At paragraph 6.3.4 reference is made to the "*concept design*" of the proposed drainage features and at paragraph 6.3.7 the FRA refers to consultation being required with the Trent Rivers Trust in order to "*maximise the effectiveness of these features*". The indicative nature of the surface water drainage scheme is

further confirmed by the request from the Lead Local Flood Authority for the imposition a condition that, inter alia, requires submission of the detailed design (including plans, network details and calculations) of the surface water drainage scheme, including details on any attenuation system, and the outfall arrangements should permission be granted (B4A). Therefore the extent of any potential downstream flood risk alleviation is currently unknown.

- 3.60 Nevertheless, the FRA explains that two small surface water attenuation areas are proposed in the catchment of the Westhorpe Dumble and Potwell Dyke. These features would serve to slow the flow in the upper parts of the catchment in order to reduce the peaks experienced in Southwell. Whilst not stated within the FRA, paragraph 6.30 of the Planning Statement (A15) states that the off-site benefits would be providing *“betterment to downstream flood risk, with a particular focus on the rate of discharge into the Westhorpe Dumble watercourse”*.
- 3.61 The FRA does not evidence the precise extent of the betterment proposed. No quantifiable evidence has been presented which identifies the areas or properties that would have a reduced flood risk as a result of the Appeal scheme and thus is it not possible to fully quantify this alleged benefit. Ordinarily one would expect flood risk modelling to be undertaken to demonstrate the extent of any flood risk reduction/betterment, however no evidence of this nature supports the Appeal scheme. I therefore do not consider is possible to conclude that the Appeal scheme **would** definitively result in net-betterment in terms of downstream flood risk or the extent of this alleged betterment.
- 3.62 Notwithstanding this however, considering the conclusions of the Appellant’s FRA, I do not dispute that some downstream betterment *could* potentially arise from the Appeal scheme. However, equally I note that the use of a sustainable drainage strategy is common practice in the development of solar farms to mitigate and offset the impermeable areas associated with the substation and infrastructure required and that the FRA itself states that the drainage strategy presented is to mitigate against the potential impacts of the development.
- 3.63 Accordingly only moderate weight attaches to this.

### **Agricultural Land**

- 3.64 It is accepted that the Appeal Scheme would not result in the loss of best and most versatile agricultural land.
- 3.65 I consider this to be a factor of neutral weight insofar as planning decisions should favour the effective use of brownfield land and land of poorer agricultural quality in preference to that of a higher quality. The Appellant also accepts at paragraph 9.13 of their SOC (C2) that this is a matter that is neutral in the planning balance.

### **Residential Amenity and Noise**

- 3.66 The Appeal scheme has been found to be acceptable in relation to residential amenity subject to a condition restricting the sound emission from any fixed plant and/or machinery associated with the development to certain levels between certain times in accordance with BS4142 methodology.
- 3.67 I consider this to be a matter of neutral weight given planning decisions should not compromise the amenity of neighbouring land uses/occupiers. The Appellant also accepts at paragraph 9.13 of their SOC (C2) that this is a matter that is neutral in the planning balance.

### **Highways and Transport**

- 3.68 The Appeal scheme has been found to be acceptable in relation to highways safety subject to conditions relating to provision of the access in accordance with the submitted plans, surfacing the access in a hard bound material for a minimum distance of 10m from the public highway and construction of a vehicular crossing of the highway footway and verge adjacent to the access.
- 3.69 I consider this to be a matter that attracts neutral weight in the planning balance given planning decisions should not compromise the safety of the public highway. The Appellant also accepts at paragraph 9.13 of their SOC (C2) that this is a matter that is neutral in the planning balance.



### **Alternative Sites**

- 3.70 The Appeal scheme was accompanied by a site selection report (A18) which considered the availability of alternative sites for the scale of development proposed. The site selection analysis undertaken by the Appellant was restricted to certain parameters.
- 3.71 Paragraph 2.4-2.5 of the Report states that the Appellant only considered land within 1km of locations at which there was sufficient capacity on the Electricity Network for the size of development proposed and where there was a viable connection to the network that the Appellant had the legal right to export electricity from.
- 3.72 The Report states that the Site Search Area was defined as a 10km corridor along this section of 132kV overhead line to the south-west of Newark. A 2km corridor (1km either side of the overhead line) was defined for detailed site analysis and consideration along the length of this 10km section. Paragraph 4.3 of the Report explains this area was defined because:
- *“The 132kV line has sufficient capacity for the export of electricity compared to lower voltage lines such as 66kV, 33kV or 11kV.*
  - *The Applicant secured a connection agreement from the DNO to connect to the Electricity Network via this 132kV line.*
  - *The 1km buffer either side of the 132kV line ensures a viable connection would be possible.*
  - *An initial high-level sifting exercise determined this area as a preferable location to locate a solar farm, subject to detailed analysis.”*
- No further explanation is provided regarding the *“high-level sifting exercise”* reported to have been undertaken.
- 3.73 The Appellant’s search for alternative sites is limited to the set parameters detailed within the Report and to the scale of the Appeal scheme. Based on this narrow scope the Appellant has demonstrated the absence of appropriately sized and available previously developed land/brownfield sites within the search area identified. Although that might lead to the conclusion that there is no better site in the immediate locality, the Appeal scheme must be considered on its own merits. I do not consider that the difficulty in finding suitable sites for

this same scale of development (that can connect to this specific grid connection) in the locality should be a decisive or influential consideration.

- 3.74 Notwithstanding the responsibility of the Planning system to support the delivery of schemes that secure energy generation from renewable or low carbon sources, targets for renewable energy are set on a national basis. There is no specific target for the District, and thus no reconcilable basis to determine the importance or otherwise of a lack of alternative sites therein. There is therefore nothing to require the search area used in the Appellant's Site Search Area analysis to contribute to national targets by means of solar energy development.
- 3.75 Accordingly, I consider no more than limited weight is afforded to this alleged lack of alternative sites.

## **4.0 Conclusions and the Planning Balance**

- 4.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that this Appeal be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2 Chapter 2 of this proof of evidence presents an overview of the Development Plan and the policies relevant to this appeal. These policies encapsulate the requirement to balance often conflicting factors, specifically in relation to the impact of the development on landscape character and the setting of designated heritage assets.
- 4.3 The Appeal scheme would make a positive contribution towards achieving the Council's commitment to carbon reduction and would accord with the thrust of Core Strategy Core Policy 10. However, in assessing the Scheme the decision maker is required, by Policy DM4 of the Allocations and Development Management DPD, to balance the public benefits of the Scheme against identified impacts listed in criteria 1 to 7. There are no objections raised to criteria 2, 4, 5, 6, and 7 of the policy subject to mitigation and conditions.
- 4.4 Criteria 1 and 3 of the policy relate to the impact of the development on the landscape character of the District and the impact on heritage assets and their settings.
- 4.5 The evidence presented by Mrs Jones demonstrates that the Appeal Scheme would result in:
- A moderate adverse landscape impact on land cover for the forty-year lifetime of the Scheme.
  - A major adverse scale of effects on the local landscape character for the Mid Nottinghamshire Farmlands Policy Zones 37, 38 and 39 [PZ39 is omitted from the Revised Scheme] for the forty-year lifetime of the scheme which are concluded to be significant impacts [save for PZ39]. It is also concluded that the mitigation planting proposed would generate a further negative effect on the landscape character.
  - Significant adverse effects on Viewpoints 1, 2, 3, 12, 14 and 15 as a result of the Appeal Scheme [Viewpoints 1, 2, 3, 14 and 15 as a result of the Revised Scheme] during the

Construction Phase and Year 1 with some lasting until Year 10 depending on the success of the planting proposed. These Viewpoints relate to well used public rights of way (PRoW Bridleway 209/74/1, PRoW Footpath 209/42/1, PRoW Footpath 209/43/1 and Cotmoor Byway). It is also concluded that the mitigation planting itself would close down or block middle distance views, creating an effective change in the experience/perception of this sensitive landscape.

- 4.6 It is therefore considered that the Appeal Scheme would fail to conserve and enhance the areas landscape character and visual amenity and consequently would be harmful to the character, appearance and visual perception of the area.
- 4.7 On the basis of this evidence, it is considered that the Appeal Scheme conflicts with Core Policies 9 and 13 of the CS, the policy actions identified within the corresponding Landscape Character Assessment, Policy E6 of the SNP and Chapter 15 of the NPPF and the guidance contained within the PPG. Particularly in the context of the duration of this impact I afford this harm significant negative weight.
- 4.8 The evidence presented by Mr Partington of Locus Consulting demonstrates that the Appeal Scheme would result in:
- A less than substantial degree of harm, at the higher end of the scale to: Halloughton Conservation Area; Halloughton Manor Farmhouse (Grade II\*, List ID: 1178664); Church of St James (Grade II, List ID: 1045555); and Barn at Bridle Road Farm (Grade II, List ID: 1178708) over the duration of its installation, use and decommissioning; and
  - A less than substantial degree of harm, at the lower end of the scale to: Pigeoncote, Granary and Stable Block at Manor Farm (Grade II, List ID: 1370180); Barn at Halloughton Manor Farm (Grade II, List ID: 1045556); Brackenhurst Hall and Attached Coach House, Orangery and Garden Wall (Grade II, List ID 1369927); Gateway and Railings at Brakenhurst Hall (Grade II, List ID: 1289246); Lodge to Brakenhurst Hall (Grade II, List ID: 1213102); Garden Walls and Potting Sheds 100 Metres North East of Brakenhurst Hall (Grade II, List ID: 1046108); and South Hill House (Grade II, List ID: 1213124).

- 4.9 Furthermore, Mr Partington concludes that subsequent to its decommissioning, the Appeal scheme would have a low adverse residual effect upon the significance of the Halloughton Conservation Area and those designated heritage assets within it including the Grade II\* Manor Farm House and Grade II Bridle Road Farm.
- 4.10 On the basis of this evidence, in respect of heritage impact, it is considered that the Appeal Scheme would be contrary to the objective of preservation required under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, heritage advice contained within CP14 of the CS and DM9 of the ADMDPD, in addition to Chapter 16 of the NPPF and the guidance contained within the PPG.
- 4.11 In accordance with Paragraphs 189 and 199 of the NPPF great weight should be given to the conservation of designated heritage assets which should be preserved in a manner appropriate to their significance. The more important the asset, the greater the weight should be. Accounting for the magnitude of the development and the low to high degrees of less than substantial harm brought about to multiple heritage assets, including the Halloughton Conservation Area and Grade II\* Manor Farm House, both individually and cumulatively, Mr Partington advises that a very high degree of weight should be afforded against the Appeal Scheme (both Refused and Revised Schemes).
- 4.12 In examining the impacts upon the significance of heritage assets, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the desirability of preserving the setting of a listed building, and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 identifying the preservation or enhancement of the character or appearance of a conservation area are key statutory provisions. These legislative requirements indicate that it is not enough to simply weigh the extent of harm against the associated public benefit arising out of the appeal proposals as required by the development plan.
- 4.13 Concluding there would be harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The harm identified must be given considerable importance and weight and can only be outweighed by

material considerations powerful enough to do so. In conducting this balancing exercise, one must be conscious of the statutory presumption in favour of preservation and demonstrably apply that presumption to the proposal under consideration. For these reasons, considering the conclusions of Mr Partington's evidence, I consider the identified heritage harm to carry significant negative weight.

- 4.14 Overall, in light of the evidence provided and the identified harms, the Appeal Scheme would fail to comply with the Development Plan when read as whole, with particular reference to policies CP9, 10, 13 and 14 of the Amended Core Strategy (2019), policies DM4, 5, 9 and 12 of the Allocations and Development Management DPD (2013) in addition to policy E6 of the Southwell Neighbourhood Plan (2016). The Appeal Scheme would also be contrary to the objective of preservation required under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I afford these conflicts significant negative weight.
- 4.15 It is from this position that one must now assess whether there are other material considerations of sufficient weight to indicate that the appeal ought to be determined other than in accordance with the Development Plan. The NPPF and documents set out at paragraphs 2.24-2.60 are material considerations.
- 4.16 I consider the following benefits should be weighed in the balance. The generation of renewable energy, landscape and ecological enhancements, flood risk improvements and economic benefits as explored in detail at paragraphs 3.44-3.63.
- 4.17 The Appeal Scheme would contribute towards the Government's long-standing and well-documented commitment to renewable energy generation, with an anticipated maximum output of some 49.9MW of electricity. This would be the equivalent of powering approximately 12,000 typical UK homes resulting in savings of around 20,690 tonnes of carbon dioxide emissions per annum during the anticipated lifetime of the development. Any renewable energy production is a substantial benefit of the scheme. In accordance with the provisions of the NPPF, significant weight attaches to this aspect of the Appeal scheme.

- 4.18 The landscape and ecological enhancements proposed reflect common practice in the development of solar farms. They also accord with the expectations of local and national planning policy. Accordingly I attach only moderate weight to these benefits.
- 4.19 The flood risk improvements proposed have not been fully evidenced and thus it is difficult to fully quantify this alleged benefit. Nevertheless, it is accepted that some downstream betterment could arise from the proposed scheme which would carry some positive weight. Equally I note that the use of a sustainable drainage strategy is also common practice in the development of solar farms. Accordingly I attach only moderate weight to these benefits.
- 4.20 It is accepted that the construction of a solar farm of this scale will give rise to certain socio-economic benefits. Whilst these are recognised, they would apply to any similar development anywhere in the District including development that can adequately mitigate the detrimental impacts identified. Accordingly I attach only moderate weight to these benefits.
- 4.21 I accept that the Appeal Scheme would give rise to certain measurable benefits, notably in terms of renewable energy generation but more generally in terms of ecological and economic benefits. However, these benefits could arise from other schemes in the District. In my view, the benefits of landscape/ecological enhancements and economic benefits are standard and attributable to any renewable energy development schemes.
- 4.22 Whilst I acknowledge the importance of renewable energy generation to meeting targets and addressing climate change, the planning system and associated guidance is not set up to allow this type of development at all costs. Rather it is set up to strike a balance as appropriate between the mitigation of harm and the benefits of delivery. When all of the above matters are weighed together, it is my view that the proposed development would cause harm of a weight and magnitude, which tips the balance and outweighs the benefits of the development. Ultimately the scheme therefore represents an unsustainable form of development.

4.23 Overall, I do not consider that the material considerations in the balance outweigh the identified conflicts with the Development Plan or the statutory objective of preservation required under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. On this basis I therefore consider the Appeal should be dismissed.