

WARLEY ENERGY HUB**Land Adjacent to St Mary's Lane, Ockendon, Upminster, RM14 3PA****Planning Application Ref. P1498.24****CONSULTATION RESPONSE CLARIFICATIONS****Date:** 24th January 2025**Authors:** Clearstone Energy (Applicant) with contributions from
Rosie Wagstaff of RMA Environmental (Flood and Drainage Consultant)
Pitman Associates Limited (Surface Water Drainage Consultant)
Joe Hassell of JHC (Fire Safety Consultant)**1. ENVIRONMENT AGENCY: PROVIDING CLARITY AND REASSURANCE ON POTENTIAL
FIREFIGHTING RUN OFF STORAGE CAPACITY AND MANAGEMENT**

Further to the consultation response provided by the Environment Agency ("EA") (Ref: NE/2024/137663/01), please find below the Applicants response to overcome this objection. The Environment Agency position states:

Following a review of the submitted information in line with our remit, whilst we do not object to this application in principle, we object to the planning application as submitted, as we require further clarification and reassurance on potential firefighting run off storage capacity and management.

Flood Risk Assessment:

The Application as submitted provides the requisite clarification and reassurance for the EA in relation to the potential firefighting run off storage capacity and management. This is primarily dealt with in the Flood Risk Assessment ("FRA") (Ref: R004).

Paragraphs 4.16 - 4.23 of the FRA addresses Fire Risk Mitigation, including the query raised by the EA. Within this response, we specifically address the query raised by the EA in relation to Fire Water Coinciding with Rainfall (Paragraph 4.22 - 4.23).

This strategy includes testing the combined capacity of the water attenuation to coincide with a fire response of 1,900l/min for 2 hours (as per NFCC guidance) alongside a 1 in 2 year 48 hour rainfall event.

Further detail is provided within Appendix D: Surface Water Drainage Strategy of the submitted FRA (extract attached). The Surface Water Drainage Strategy sets out the attenuation capacity of the impermeable drainage blanket. Appendix C: Fire Scenario of the Surface Water Drainage Strategy specifically sets out the excess capacity of the system to accommodate a fire coinciding with the 2 year, 48 hour rainfall event.

Based on the above, we feel that this objection has been satisfied and should be removed.

WARLEY ENERGY HUB**Land Adjacent to St Mary's Lane, Ockendon, Upminster, RM14 3PA****Planning Application Ref. P1498.24****2. RENEWABLE ENERGY DEVELOPMENT IN THE GREENBELT**

Further to a number of consultation responses regarding the appropriateness of this development within the Green Belt and the recent amendments to Green Belt policy within the NPPF, additional points of clarification and justification are provided below and include citations from the NPPF and details of a recently 'allowed' appeal (public inquiry) that we consider to add significant weight to the determination of this planning application.

Planning Design and Access Statement ("PDAS") Response

Our response to the development being located in the Green Belt is detailed at Section 6.1 of the submitted PDAS (Document Ref: R002). We also set out our conclusions in relation to the Planning Balance at Section 7.10.

With regard to development in the Green Belt and meeting the threshold for 'very special circumstances', we would like to draw your attention to the below paragraph's within the submitted PDAS, setting out the Planning Balance:

"7.10.5 ...when considering harm to the Green Belt, regard must be given to the fact that limited or insubstantial harm arises to any other material planning consideration to be weighed in an overall balance of planning merits. The very special circumstances of location in proximity to a valid grid connection, the level of demand and the contribution that the Site can make to delivering the national objectives set out in the overarching National Planning Statements all contribute significantly to the very special circumstances which outweigh the protection normally accorded to Green Belt land.

"7.10.6 Overall, when considering harm to the matters arising from the Proposed Development and in particular the potential harm to the Green Belt, these considerations need to be balanced by the overwhelming weight of energy policy which now pervades all aspects of the national economic and environmental strategy, and of development plan policy which is overriding in seeking to deliver the objective of a net zero-carbon society. In that consideration the very limited harm to the Site and to the Green Belt is significantly outweighed by the benefits of the development and amounts to very special circumstances."

In summary, in relation to the Green Belt, it is the Applicant's opinion that whilst any development will by definition, give rise to a degree of harm, for the reasons set out in the PDAS as a whole, very special circumstances outweigh any such harm as may arise.

WARLEY ENERGY HUB**Land Adjacent to St Mary's Lane, Ockendon, Upminster, RM14 3PA****Planning Application Ref. P1498.24****National Planning Policy Framework (NPPF) Paragraph 155 - Grey Belt**

NPPF Paragraph 155 introduced in December 2024 sets out the principle of Grey Belt and states that:

"The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:

- A. the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining GB across the area of the plan,*
- B. there is a demonstrable unmet need for the type of development proposed,*
- C. the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework, and*
- D. where applicable the development proposed meets the "Golden Rules" requirements set out in Framework paragraphs 156 and 157."*

The December 2024 NPPF Glossary defines Grey Belt as:

"For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development."

Appeal Decision Summary (ref. APP/V4630/W/24/3347424 – 13th January 2025) (Full Decision Appendix A)

The updated National Planning Policy Framework 'grey belt' policy was applied to a proposal for a 50 MW Battery Energy Storage System ("BESS") issued in January 2025. The BESS, to be located in an area near Walsall on a site that was assessed to fall into the new grey belt category, was not considered to be inappropriate development in the Green Belt. The Walsall scheme is considered to be similar in terms of design, location and planning policy interpretation, thus it is considered a strong precedent for our Proposed Development.

In summary, the Planning Inspector was convinced that the appeal site should be considered 'grey belt land', finding that it did not contribute strongly to the Green Belt purposes of checking the unrestricted sprawl of large built-up areas and the prevention of neighbouring towns merging.

As set out below, we are of the opinion that the Proposed Development is comparable to the allowed appeal, meets the criteria set out in Paragraph 155 of the NPPF, and therefore should also be considered Grey Belt.

In relation to the weight applied to the development of the BESS and its contribution to climate change and energy security, the Planning Inspector also concluded:

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"116. The great weight attached to the contribution to mitigating climate change and to energy security... Accordingly, taking the case as a whole, very special circumstances exist which justify the development."

117. I conclude that the benefits of this proposal clearly outweigh the harm to the Green Belt and the other harms identified such that very special circumstances exist to justify this proposal. Subject to the imposition of conditions, the proposal would not conflict with the development plan when read as a whole or the Framework."

Moreover, the Inspector was satisfied that even if the proposal's Grey Belt status were to be challenged, it would still be acceptable, as 'very special circumstances' were present justifying the development's impact on the Green Belt.

Warley Energy Hub - Grey Belt Land

We are of the opinion for the reasons set out below, that the Proposed Development site falls within the definition of Grey Belt land on the basis that this land does not strongly contribute to the Green Belt purposes of checking the unrestricted sprawl of large built-up areas and the prevention of neighbouring towns merging.

To determine whether the Site falls to be considered as Grey Belt, the site has to pass the test of whether the land, does not strongly contribute to Purpose A ('to check the unrestricted sprawl of large built-up areas') and Purpose B ('to prevent neighbouring towns merging into one another'), as set out at NPPF Paragraph 143.

Having reviewed the Havering Borough Council's Green Belt Study 2016, the Proposed Development is located within Parcel number 10 of this study. The study concludes that for Purposes A and B (identified above) Parcel number 10 makes no contribution to the purpose of the Green Belt (please see Appendix B - extract from the Study).

Purpose A - Sprawl:

The Proposed Site does not directly abut the boundary of any existing large built-up area, and therefore makes no contribution to the purpose of the Green Belt.

The Havering Green Belt Study states:

"3.3.1 ...The land east of the M25 is not related to any built-up area and therefore does not contribute to this purpose."

WARLEY ENERGY HUB**Land Adjacent to St Mary's Lane, Ockendon, Upminster, RM14 3PA****Planning Application Ref. P1498.24**Purpose B - Merging:

Whilst the Proposed Development would result in additional development in the Green Belt, the BESS would have no material impact on the perception of the gap between urban areas. The relative size of the development footprint, its temporary nature, and the fact it would not lead directly to the merging of urban areas, the site does not strongly contribute to Purpose B.

The Havering Green Belt Study states:

"3.4.1 ...Areas of land farther away from the built-up area do not have any contribution to this purpose as distances to nearby towns are generally too large, although development would often result in a decrease of the gap between towns."

Conclusions on Grey Belt Status

Based on these conclusions, the Site qualifies to be considered as Grey Belt. However, for the proposal to be considered as not inappropriate development it must satisfy all of the criteria, A to D, as listed in NPPF paragraph 155.

Criterion A - "The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan"

This criterion requires that the development would not fundamentally undermine the purposes, when taken together, of the remaining Green Belt across the area of the plan. This is taken to mean an assessment of the proposal against all 5 of the purposes of the Green Belt.

The impact on Purposes (a) and (b) is considered above, concluding there would be no conflict. As to Purpose (c), encroachment, it is agreed that the Proposed Development would result in harm to this purpose. Given the relative scale of the site and the surrounding Green Belt area (Parcel 10 of the Green Belt Study 2016), the harm resulting from encroachment would be negligible.

On Purpose (d) and (e), it is agreed that the Site does not contribute to these purposes.

Criterion B - "There is a demonstrable unmet need for the type of development proposed"

As set out in the Appeal Decision summarised above and submitted PDAS (Document Ref: R002), the development of a transmission connected BESS project provides reason to show that the requirement of criterion B of NPPF paragraph 155 is met.

To further emphasise the Governments backing for all forms of energy storage, they state within the Net Zero Strategy 2021 that the electricity network; *'will consist of abundant, cheap British renewables, cutting edge new nuclear power stations and underpinned by flexibility, including storage, gas with CCS, hydrogen and ensure reliable power is always there at the flick of a switch'.*

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Further comment and justification for the need for the Proposed Development is provided within the submitted PDAS at Section 1.4 (The Importance of BESS).

Criterion C - "The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework"

As set out in the Appeal Decision summarised above, the operational vehicle movements to and from the Site will be exceptionally limited. Given the nature of the Development, whether it was located in a rural or urban area, the scale of traffic generation could not be limited or changed to alternative transport modes.

Based on the above, the requirement of criterion C of NPPF paragraph 155 is met.

Criterion D - "Where applicable the development proposed meets the 'Golden Rules' requirements..."

Criterion D, the "Golden Rules" does not apply here.

In addition to the successful Walsall appeal, the following Green Belt appeals are considered pertinent in setting a precedent for the development of BESS schemes within Green Belt locations. The full decision notice is also provided.

Successful Appeals – Green Belt (Full decisions found in Appendix C)

Site Address	Applicant	LPA	Appeal Ref.	Decision
Wickford, Essex	Pelagic Energy	Chelmsford City Council	APP/W1525/W/22/3306710	Allowed
Land South of Marsh Farm, Fobbing	Rayleigh Green Ltd	Thurrock Borough Council	APP/M1595/W/23/3328712	Allowed
Land East of West Boldon Substation, South Tyneside	Whirlwind Energy Storage	South Tyneside Council	APP/A4520/W/24/3350689	Allowed

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Please let me know if you require any further information from us in relation to this.

Yours sincerely,

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WARLEY ENERGY HUB

Land Adjacent to St Mary's Lane, Ockendon, Upminster, RM14 3PA

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Appendix A - Appeal Decision ref. APP/V4630/W/24/3347424



Appeal Decision

Inquiry Held on 5 November 2024

Site visit made on 20 November 2024

by SRG Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2025

Appeal Ref: APP/V4630/W/24/3347424

Land off Chapel Lane, Great Barr, Walsall

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Anesco Limited against Walsall Metropolitan Borough Council.
 - The application Ref 23/1286 is dated 4 October 2023.
 - The development proposed is the construction of a temporary 49.35MW battery energy storage facility, with security fencing, access and associated works.
-

Decision

1. The appeal is allowed, and planning permission is granted for a temporary 49.35MW battery energy storage facility, with security fencing, access and associated works on land off Chapel Lane, Great Barr, Walsall in accordance with the terms of the application, Ref 23/1286 dated 4 October 2023, and the plans submitted with it, subject to the Schedule of Conditions set out in Annex A.

Preliminary Matters

2. The above description, taken from the application form, adequately describes the proposal.
3. Had the local planning authority (lpa) been in a position to decide the application, it would have been refused for 9 reasons (Annex C). The putative reasons for refusal (RfRs) refer to inappropriate development in and loss of openness to the Green Belt (GB), landscape and visual impact, heritage, highways, drainage/ecology, best and most versatile agricultural land (B&MV), noise and proximity to power lines.
4. Before the inquiry opened, the applicant requested that the application be decided based on amended plans. The amendments included, relocating the site access and changes to the internal access track, revised visibility splays, replacing the CCTV system and communications tower with beam security, the inclusion of a swale and fire water pond to align with the proposed drainage layout, rationalisation of the fencing, removing the existing stable blocks and changes to the Landscape Strategy Plan.
5. The applicant consulted those residents originally contacted, and the lpa consulted stakeholders on the proposed amendments. Having regard to the nature of the amendments and the extent of the consultations undertaken, I

concluded¹ that no party would be prejudiced by deciding the application on the basis of the amended plans. Whilst I indicated that I was minded to decide the application on that basis, I noted that to ensure consistency, minor changes may be required to other plans.

6. Subsequently, the applicant included, with the Revised Plans Bundle, an additional plan (C0002457-14 REV A - Indicative Site Section). The lpa reconsulted relevant stakeholders on this plan. This plan was not before me when I concluded on the acceptability of the amended plans. However, it would have been clear, given the site falls from the north-eastern boundary to the south-west, that to ensure a level platform some groundworks would be required. At the inquiry, the lpa, whilst noting that it would have been appropriate for this plan to have been submitted earlier, it was content to proceed on the basis of the additional plan. I confirmed that the application would proceed on the basis of the amended plans.
7. With the acceptance of amended plans, the submission of further information, consultation responses and reflecting on the appropriateness of RfR 7, the lpa did not pursue the putative RfRs relating to highways (RfR 4), drainage/ecology (RfR 6), and proximity to overhead power lines (RfR 7). Neither the applicant nor the lpa called witnesses on these matters.
8. Some of the RfRs contain reference to conflict with Unitary Development Plan (UDP) Policy ENV38 – Telecommunications Equipment. With the removal of the communications tower, this policy is no longer relevant. RfR 1 relating to the GB refers to Policy ENV7 of the Black Country Core Strategy (BCCS). This policy relates to the development of renewable energy sources. This application is for a freestanding battery energy storage system (BESS). Its purpose is to store electricity and release it when needed to match supply with demand. In this context, BCCS Policy ENV7 is not relevant.
9. During the inquiry it became clear that some plans continued to contain contradictory detail. For example, the amended site layout plan showed the battery storage compound being enclosed on all sides by acoustic fencing. However, the evidence, and the basis on which the proposal was considered, was that acoustic fencing was to be provided on 3 sides with standard fencing on the fourth side. These contradictions were corrected during the inquiry. No one would be prejudiced by accepting these corrections.
10. Drawing the above together, no party would be prejudiced by deciding the application on the basis of the amended/corrected plans. Accordingly, this appeal has been decided based on the following plans, Location & Block Plan, Drawing No. C0002457_03 Rev. C, ESS Containers Plans and Elevations, Drawing No. C0002457_04C, Customer Substation Plans and Elevations, Drawing No. C0002457_08 Rev. B, Site Layout, Drawing No. C0002457_02 Rev P, Visibility Splay, Drawing No. 2108013-06 Rev B, Substation Plan & Elevation, Drawing No. C0002457_06 Rev D, and Tree Protection Plan, Drawing No. 404.064032.00001 Rev 04.
11. The site and other substantial tracts of land in the wider area are used for the grazing of horses. Albeit references were made to the land being used for horsiculture, grazing falls within the definition of agriculture. In deciding this application, it is not my role to determine what the lawful use of the site is. If

¹ 7 October 2024.

the applicant or the landowner wishes to seek such a determination, an application should be made to the Ipa under S192 and S193 of the above Act. For the purposes of concluding on this issue, I have proceeded based on the agreed position in the Statement of Common Ground that the land is in agricultural use.

12. On the 8 October 2024, exercising the powers conferred by Regulations 14(1) and 7(5) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017), the Secretary of State determined that this development is not an Environmental Impact Assessment development. I have no reason to disagree with that conclusion.
13. On the final day of the inquiry, the representative of the Rule 6 party, the Staffordshire Gardens and Parks Trust (SG&PT), was unable to attend the inquiry. Closing submissions for the SG&PT were submitted in writing.
14. Applications for costs were made by, (1) Anesco Limited against Walsall Metropolitan Borough Council (WMBC) and (2) WMBC against Anesco Limited. These applications are the subject of separate decisions.
15. Following the completion of the parties' cases, the inquiry was adjourned to allow for the submission of suggested conditions. The inquiry was closed in writing on Tuesday 26 November 2024.
16. At the Case Management Conference held on the 29 August 2024, the parties agreed that, having regard to the contents of National Planning Policy Framework² paragraph 154 (Framework) extant at that time, the proposal comprised inappropriate development in the GB. As such, the Main Issues addressed at the inquiry did not include consideration as to whether the proposal represented inappropriate development in the GB. In December 2024, revisions to the Framework were published. Changes relevant to the determination of this case relate to Framework paragraph 155, which, introduced a further category of development regarded as not inappropriate in the GB. This change required the issue of whether the development is inappropriate development to be addressed. The parties were offered an opportunity to comment, and their responses have been considered.

Main Issues

17. These are,
 1. whether the proposal would be inappropriate development in the GB having regard to the Framework and any relevant development plan policies,
 2. the effect on openness,
 3. the effect on the character and appearance of the area,
 4. the effect on heritage assets,
 5. the effect on the living conditions of residents with particular reference to noise,
 6. the effect on the supply of agricultural land, and

² National Planning Policy Framework December 2023.

7. whether the harm by reason of inappropriateness, and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

18. The development plan includes, saved policies of the Walsall Unitary Development Plan (UDP) 2005, the Black Country Core Strategy (BCCS) 2011 and the Walsall Site Allocation Document (WSAD) 2019. Statements of Common Ground (SoCG) on Planning, Landscape and Heritage list the relevant development plan policies.

Issue 1 - Inappropriate Development

19. WSAD Policy GB1 refers to development in the GB being managed in accordance with policies in the Framework. Framework paragraph 155 indicates that,

The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:

- a. the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining GB across the area of the plan,*
 - b. there is a demonstrable unmet need for the type of development proposed,*
 - c. the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework, and*
 - d. where applicable the development proposed meets the "Golden Rules" requirements set out in Framework paragraphs 156 and 157.*
20. Criterion b and c above are subject to Footnotes 56 and 57 which do not apply to this development. The Glossary to the Framework defines Grey Belt as,

"...Grey Belt is defined as land in the GB comprising previously developed land (PDL) and/or³ any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in Framework paragraph 143. Grey Belt excludes land where the application of the policies relating to the areas or assets in Footnote 7 (other than GB) would provide a strong reason for refusing or restricting development.
 21. Footnote 7 refers to Framework policies, rather than those in development plans, relating to: habitats sites, and those sites listed in paragraph 194⁴, and/or designated as Sites of Special Scientific Interest; land designated as GB, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets and other heritage assets of archaeological interest referred to in Footnote 75; and areas at risk of flooding or coastal change.

³ My emphasis.

⁴ There appears to be a typographical error in this Footnote. In the December 2023 edition of the Framework, Footnote 7 to paragraph 11 d (I) refers to, "...those sites listed in paragraph 187". Paragraph 187 refers to types of sites that should be given the same protection as habitat sites. In the December 2024 Framework, Footnote 7 refers to paragraph 189. However, Paragraph 189 refers to National Parks etc. The equivalent to the December 2023 paragraph 187 in the December 2024 Framework is paragraph 194.

22. As to whether the land is Grey Belt, the applicant accepts that the site is not PDL, and it is agreed that Purpose d - to preserve the setting and special character of historic towns, is not relevant. To determine whether the site falls to be considered as Grey Belt, the site has to pass the test of whether the land, does not strongly contribute to Purpose a - to check the unrestricted sprawl of large built-up areas and Purpose b - to prevent neighbouring towns merging into one another listed in Framework paragraph 143.

Purpose a - Sprawl

23. The evidence base for the BCCS review, included a GB study, which assessed how land within the GB contributes to the purposes of the GB. The site is located within Parcel B93, an area that covers some 1,768ha between Walsall, Sutton Coldfield and Birmingham. The study concluded that Parcel B93 made a strong contribution to Purposes a, b and c. The study assessed the harm of releasing a sub-parcel of B93, B93A, which covers an area of some 487ha, south of Sutton Road, west of Beacon Road down to Great Barr as being "Very High". Given that Parcel B93 fills the entire gap, between the settlements of Walsall, Sutton Coldfield and Birmingham and Parcel B93A is a substantial area, these conclusions are unsurprising and do not assist in assessing the effect of the development on GB purposes.
24. The Framework does not contain a definition of what might constitute sprawl. Concluding on whether the development would conflict with Purpose a, depends on the relationship of the site with the large built-up area. Here, although the site is located towards the southern tip of the GB, it is not immediately adjacent to the large built-up area. Rather it is separated from it by open fields, recreational land and the Great Barr Registered Park and Garden (RPG). As such, the development would be physically and visually discrete from the large built-up area. In this context, the site does not strongly contribute to Purpose a.

Purpose b - Merging

25. The proposal would result in physical development in the gap formed by Parcel B93. Therefore, in the strict sense of this purpose, the proposal would not in itself lead to the merging of neighbouring towns. However, the countryside and open land between towns is always under pressure from development and it is rarely the case that a single development, on its own, would cause neighbouring towns to merge. However, such areas could be lost incrementally and, over time, lead to the merging of neighbouring towns.
26. Here, albeit temporarily, there would be a loss of GB land between the towns of Walsall, Birmingham and Sutton Coldfield. This would result in a minor, temporary reduction, in the gap between these towns. Therefore, the proposal would contribute to the possibility of these towns merging. That said significant open land would remain between the site and these towns. There is very limited visibility of the site, and the BESS would have no material impact on the perception of the gap. In this context and given the proposal would be temporary and would not lead directly to the merging of neighbouring towns, the site does not strongly contribute to Purpose b.

Conclusion on Grey Belt Status

27. Based on these conclusions, the site falls to be considered as Grey Belt. However, for the proposal to be considered as not inappropriate development it must satisfy all of the criterion, a to d, listed in Framework paragraph 155.

Criterion A

28. This criterion requires that the development would not fundamentally undermine, the purposes, when taken together, of the remaining Green Belt across the area of the plan. I take this to mean an assessment of the proposal against all 5 of the purposes of the GB.
29. The impact on Purposes (a) and (b) is been considered above, concluding there would be no conflict. As to Purpose (c), encroachment, it is common ground that the BESS would result in harm to this purpose. Given the relative scale of the site and Parcel B93, the harm resulting from encroachment would be negligible. On Purpose (d), it is agreed that the site does not contribute to this purpose.
30. Regarding Purpose (e), this was assessed in Appendix 3 of the GB study. Here, a substantial number of individual parcels of land, excluding the site, were assessed. The study came to a global conclusion that all parcels make an equal and strong contribution to this purpose. The manner in which this part of the Study was undertaken does not assist in assessing the effect of this development on Purpose (e).
31. What is more useful, is the Alternative Sites Assessment (ASA) prepared by the applicant in September 2023 and updated for the appeal in October 2024. The development of a BESS has one key locational requirement. That is the availability of and proximity to a grid connection. Access to the local grid is the biggest constraint facing the alternative energy supply and associated infrastructure industries. Sites need to be located close to a point of connection (POC) to the grid, so as to minimise the loss of energy during transmission and the grid must have capacity to absorb the electricity discharged at times of peak demand. The intended point of connection to the grid is some 550m from the site and then by existing underground cable to the Bustleholme sub-station.
32. The ASA considered a search area of some 2km from the POC. In my experience, this is generally the maximum distance for a connection before its viability, both in terms of electricity transmission and cost, becomes questionable. Undertaking what I consider a robust assessment, the ASA concludes that there are no alternative sites suitable for this scheme. I have no reason to dispute that conclusion, and no one presented the inquiry with an alternative location for consideration. In the absence of an alternative site, there would be no conflict with Purpose e to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
33. Drawing all of the above together, I conclude that the development would not fundamentally undermine, the purposes when taken together of the remaining GB in the plan area. Criterion A of Framework paragraph 155 is met.

Criterion B

34. Here, a demonstrable unmet need for the development proposed is required. Although all forms of electricity storage⁵ were removed⁶ from the definition of nationally significant energy generating stations under the Planning Act 2008, National Policy Statement (NPS) EN-1⁷ refers to the role of electricity storage. Whilst NPSs are national policy for energy projects that are defined as Nationally Significant Infrastructure Projects (NSIP) identified by the 2008 Act, NPS EN-1 indicates that it may be a material consideration in decision making on applications that fall under the Town and Country Planning Act (1990 (as amended)). Thus, whilst a BESS is not an NSIP and the specific provisions that NPSs make for them, they do provide a context to assist in the determination of a planning application.
35. NPS EN-1 indicates⁸ that energy storage has a key role to play in achieving net zero and providing flexibility to the energy system, so that high volumes of low carbon power, heat and transport can be integrated. Storage is needed to reduce the costs of the electricity system and to increase reliability by storing surplus electricity in times of low demand to provide electricity when demand is higher. Storage can provide various benefits, locally and nationally. These include maximising the usable output from intermittent low carbon generation (e.g. solar and wind), reducing the total amount of generation capacity needed on the system; providing a range of balancing services to the National Electricity Transmission System Operator (NESO) and Distribution Network Operators (DNO) to help operate the system, reduce constraints on the networks and help to defer or avoid the need for costly network upgrades as demand increases.
36. NESO is a publicly owned energy body responsible for energy planning in Great Britain. When NPS EN-1 was published in November 2023 it noted that there was around 4GW of operational electricity storage in Great Britain, of which some 1GW is battery storage. NESO recently published Clean Power 2030 Advice on achieving clean power by 2030. The “clean power pathway”, sees a 4-to-fivefold increase in demand flexibility with, amongst other things, an increase in grid connected battery storage from 5GW to over 22GW. NESO predicts that unprecedented volumes of clean energy infrastructure projects are needed to meet the Government’s energy ambitions. Whilst the NESO report is not government policy or has the same status as the Framework, it does provide supporting context for decision making.
37. Framework paragraph 161 indicates that the planning system should support the transition to a low carbon future and support, amongst other things renewable and low carbon energy and associated infrastructure. Given the context provided by NPS EN-1 and the NESO research, it is not a huge leap to conclude that a BESS project represents much needed associated infrastructure.
38. One of the constraints to the early development of renewable and low carbon energy and associated infrastructure is the ability to access the local grid. In some places, notwithstanding the appetite to develop projects, grid

⁵ Other than pumped hydroelectric storage.

⁶ The Infrastructure Planning (Electricity Storage Facilities) Order 2020.

⁷ Overarching National Policy Statement for Energy.

⁸ Paragraphs 3.3.25 to 3.3.27.

connections are not available until the mid to late 2030s. This project has a grid connection offer of 2028. Thus, given the imperative of mitigating climate change and achieving net-zero, this project has the ability to make an early and material contribution to the clean power pathway required to achieve net zero. Whilst the appellant has not provided "*...quantifiable evidence...*" of an unmet need, the above context provides reason to show that the requirement of criterion B of Framework paragraph 155 is met.

Criterion C

39. Criterion C requires that the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework. Framework paragraph 110 indicates that significant development should be focussed on locations that are or can be made sustainable, through limiting the need to travel. This paragraph goes on to say that opportunities to maximise transport solutions will vary between urban and rural areas, and this should be taken in to account in both plan-making and decision-making. Framework paragraph 115 seeks to ensure amongst other things, that sustainable transport modes are prioritised taking account of the type of development and its location, safe access can be achieved and any significant impacts on the capacity of the highway network or highway safety can be acceptably mitigated.
40. The thrust of Framework paragraph 110 appears to relate to development that would generate significant level of vehicle movements, particularly by car. With this development there would be 2 phases, the construction phase and the operational phase. During the 40-week construction phase the development would lead to an increase in traffic on the road network of, on average, three, 2-way vehicle movements per day. During the operational phase, there would one van accessing the site on 2 occasions per month. This level of traffic movement is not significant, nor would it have an unacceptable effect of highway capacity or safety. The Highway Authority has no objection on access or traffic generation grounds. Moreover, given the nature of the development, whether it was located in a rural or urban area, the scale of traffic generation could not be limited or changed to alternative transport modes. The requirement of criterion C of Framework paragraph 155 is met.

Criterion D

41. Criterion D, the "Golden Rules" does not apply here.

Conclusion on Issue 1

42. The relevant criteria contained in Framework paragraph 155 are met and this development does not fall to be considered as inappropriate development in the GB. As such there would no conflict with WSAD Policy GB1.
43. The Courts have found that where a development is found not to be inappropriate development it should not be regarded as harmful either to the openness of the GB or to the purposes of including land in the GB. Notwithstanding my conclusion on Issue 1, for completeness the issue of GB openness is addressed below.

Issue 2 - Green Belt Openness

44. Framework paragraph 142 says that one of the essential characteristics of GBs is, openness and permanence. Planning Practice Guidance⁹ (PPG) indicates that openness is capable of having both spatial and visual impacts. PPG lists the factors involved when considering the effect on openness. These include, visual impact, volume, duration, the degree of activity generated and remediability i.e. any provisions to return land to its original, equivalent or improved state of openness.
45. The lpa acknowledge that the visual envelope of the site is limited¹⁰. This area is contained by The Duckery, Chapel Lane, Pinfold Lane, a short stretch of Old Hall Lane and the western edge of the farmstead at Old Hall Farm. Within this tight visual envelope, public views are limited. Views obtained by walkers and drivers travelling north on Chapel Lane start immediately past The Duckery and end at the stables, with further glimpsed views at the access to the stables. Views for walkers and drivers travelling south on Chapel Lane are similarly limited. Existing planting on the road frontage is limited with 2 substantial lengths where open views across the field are available. Views from Pinfold Lane and Old Hall Lane are limited to one or 2 locations.
46. A public footpath runs north-east diagonally from the existing site entrance on Chapel Lane to Pinfold Lane. Given the absence of any planting along the north-eastern boundary of the site, views across the site to The Duckery are available. However, access to and from this path is blocked and it appears to have been blocked for some time. Spatially, the proposal would introduce a significant volume of development into a largely open field. The footprint of the whole compound and associated access tracks would occupy around 50% of the field and much of its length.
47. The proposal provides for, the removal of the stables and associated detritus, strengthening of the gappy hedgerow on Chapel Lane and a new hedgerow on the north-eastern boundary. Ensuring a level platform for the various components, particularly the DNO Substation, requires a cut and fill exercise. The soil would be retained and used for bunding along the north-eastern and north-western edges of the compound. These features and the acoustic fencing would limit views to the upper parts of the battery containers, the customer substation and the DNO substation¹¹.
48. As the boundary planting matures, the visual and spatial impact of the proposal would be progressively mitigated. Post construction, the BESS would generate a limited amount of activity for maintenance purposes. Albeit 40 years is a long time, the BESS would be a temporary feature, after which, the site would be restored, and the mature boundary planting would be retained. In this context, it could not be said that the land would be completely restored to its original, equivalent or an improved state of openness. That said, it is an overarching landscape/biodiversity objective that existing hedgerows are retained, and new hedgerows planted. Moreover, there is nothing to prevent the landowner/occupier undertaking similar boundary planting.

⁹ Green Belt Paragraph: 001 Reference ID: 64-001-20190722.

¹⁰ Appendix G Plan 2 lpa Landscape & Visual Matters.

¹¹ Addendum Landscape of Common Ground.

49. Drawing this part of the assessment of Issue 2 together, given the utilitarian nature of the proposal it would have a harmful effect on the openness of the GB on a temporary, but long-term basis. With landscape mitigation, the harm would be localised, and the harm to openness would be Minor Adverse.

Issue 3 - Character and Appearance

50. UDP, BCCS and WSAD policies generally refer to the protection and, where appropriate, enhancement of landscape and countryside character. These policies also crossover into the other main issues relating to, agricultural land, the GB, historic character and local distinctiveness. Relevant landscape character documents include the Barr Beacon Countryside Area Profile (BBCAP), the Black Country Historic Landscape Characterisation (BCHLC) 2009 updated in 2019, the Black Country Landscape Sensitivity Assessment (BCLSA) 2019 and the Draft Great Barr Conservation Area Appraisal and Management Plan (CAAMP).
51. The aims of the BBCAP include, protecting and enhancing the appearance and quality of the landscape and encouraging the creation of landscape resources through, amongst other things, the enhancement of hedgerows. The BCHLC includes the site within the WL09 Barr Beacon and Aldridge Fields Character Area and is described as the most rural area in Walsall.
52. The BCLSA locates the site within the south-east corner of Landscape Area BL28, which appears to be contiguous with GB Parcel B93A. The appraisal of landscape sensitivity refers to, (1) the medium to small scale fields crossed by rural lanes enclosed by hedgerows that add to the small-scale character of the area and (2) the visually prominent pylon route and the presence of paddocks both of which has an urbanising effect on the landscape. Area BL28 is given a moderate to high sensitivity rating with the pylons and paddocks identified as, "anomalies" to the sensitivity rating.
53. The CAAMP locates the site within Character Area A – Historic Core of the Great Barr Estate and Sub-Area A6 - Chapel and Pinfold Lanes. Here, landscape sensitivity is identified as High and visual sensitivity as High/Medium. This sub-area is identified as having a high sensitivity to all types of energy development that would affect rural character.
54. For the purposes of Framework paragraph 187a, it is agreed that the landscape is not a valued landscape. In achieving the overarching objective of enhancing the natural environment, Framework paragraph 187b indicates that decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including amongst other things trees and woodland.
55. The lpa and applicant agree that the landscape and visual effects of the BESS would, be restricted to limited areas¹². Similarly, there is significant agreement on the predicted effects on landscape and visual receptors¹³. Where there are differences of professional opinion these are minor. There is agreement, that during and immediately post-construction (Year 1) the effect depending on the nature of the receptor would be *Minor, Minor-Moderate or Moderate Adverse*. The same conclusions apply to visual receptors except for walkers using Chapel Lane, which forms part of the Beacon Way long distance

¹² Lpa Landscape Evidence Appendix G.

¹³ Landscape Statement of Common Ground & Addendum Landscape Statement of Common Ground.

- footpath where the applicant assesses the Year 1 effect as *Moderate Adverse* and the lpa as *Major/Moderate Adverse*. Adverse effects in Year 1 are to be expected. The key test as to the effect, is in later years when mitigation starts to take effect and the duration of the effect, Year 15.
56. In terms of the effect on the landscape character of the site and its immediate vicinity, the applicant's Year 15 assessment is *Temporary Minor Adverse* and the lpa's is *Permanent Moderate Adverse*. For the BCLSA Landscape Area BL28, the respective assessments are *Temporary Negligible* and *Permanent Moderate/Minor Adverse*. For the BCHLC Barr Beacon and Aldridge Fields Character Area WL09, the respective assessments are *Temporary Negligible* and *Permanent Moderate/Minor Adverse*.
 57. For drivers travelling either way on Chapel Lane, the applicant assesses the Year 15 visual effect as *Temporary Negligible Adverse* and the lpa as *Permanent Moderate Adverse*. For walkers passing on Chapel Lane (Beacon Way) the respective assessments are *Temporary Minor* and *Permanent Moderate Adverse*. For walkers on Old Hall Lane, the respective assessments are *Negligible Temporary Adverse* and *Minor Permanent Adverse*.
 58. The lpa's assessment of landscape and visual effects is predicated on the basis that 40 years equates to a permanent effect. Whilst 40 years is a long time, it would be wrong, consider the development as permanent. An allowance has to be made for the fact that any beneficial effects, the new hedgerows, would be retained and any adverse effects from the introduction of a utilitarian structure, would be removed. On that basis, I consider the assessment of landscape and visual effects must be prefaced with the descriptor of temporary, with a recognition that mitigation that includes hedgerow and tree planting would, from Year 1 mature and continue to mature increasingly mitigating the Year 15 effects.
 59. In terms of landscape effects, in relation to the site and its immediate vicinity, I consider the Year 1 effects would be *Temporary Moderate Adverse* and at Year 15 would be *Temporary Minor Adverse*. Given the scale of the BCLSA Landscape Area BL28 and the acknowledged limited landscape context envelope, the Year 1 effects would be *Temporary Minor Adverse* and by Year 15 *Temporary Negligible Adverse*. For the BCHLC Barr Beacon and Aldridge Fields Character Area WL09, for similar reasons the Year 1 effects would be *Temporary Negligible Adverse* and by Year 15, there would be no discernible landscape effect.
 60. Chapel Lane, although it has the appearance of a country lane, is a well-used route for drivers from Birmingham and the M6 accessing Streetly and Sutton Coldfield avoiding the Walsall ring road and vice versa. The significant use of the road is evidenced by the introduction of traffic calming measures next to St Margaret's Church and The Duckery. In this context, whilst passengers would be able to take in the scene, drivers need to concentrate on the road and oncoming traffic rather than the surrounds. At Year 1, the visual effects would be *Temporary Moderate Adverse* and by Year 15 *Temporary Negligible Adverse*, when for both drivers and passengers' views would be limited to the briefest of glimpses through the maturing hedgerows and glimpses at the site access and the access to the stables where views of the substation, acoustic fencing and battery stores would be limited by bunding.

61. For walkers on Chapel Lane, Beacon Way, again because of the nature of the road they have to concentrate on the traffic. That said, I acknowledge that in Year 1 given their high sensitivity, the effect would be *Temporary Moderate/Major Adverse* and by Year 15 *Temporary Minor Adverse*.
Notwithstanding this conclusion, I am aware that on the northern side of Chapel Lane running north-eastwards from just before the start of the site at The Duckery and finishing in the area where the boundary hedge on the site is at its thickest is a public footpath running between 2 dense mature hedges. Although signposted at its north-eastern end, the path is overgrown and currently unusable. Proper maintenance of this path would allow walkers safe passage along this part of Chapel Lane and as such any views would be completely obscured. For walkers on Old Hall Lane, the effects at Year 1 would be *Temporary Minor Adverse* and by Year 15 *Negligible*.
62. During the inquiry, a further view was identified by the SG&PT from steeply rising land in the north-east corner of the RPG. This a substantially overgrown area where access is limited to one or 2 narrow paths through the scrub. It is not in a location where casual walkers would seek to visit. From here views of the BESS would be limited to a relatively small area at the north-eastern corner of the battery compound. Given the view would be downwards to that part of the compound and would remain unscreened, the Year 1 and Year 15 effects would be *Temporary Moderate Adverse*.
63. Drawing the above together, on Issue 3 the BESS would, overall, result in *Moderate/Minor Adverse* landscape and visual effects contrary to the objectives of development plan policy. These effects would be temporary and with mitigation would, in the short term, be materially reduced. In the long term once the site had been restored, the mitigation planting would have beneficial landscape and visual effects.

Issue 4 - Heritage

64. The site is located within the Great Barr Conservation Area (CA), within which sits the Grade 2 listed Great Barr Hall RPG and other heritage assets (HA). The site sits outside and adjoins the RPG on its north-eastern boundary. Within the RPG are, the Grade 2 listed remains of Great Barr Hall and the Grade 2 listed St Margaret's Church. North-east of the site is the Grade 2 listed Old Hall Farmhouse and Grade 2 listed Old Hall Barn. It is accepted that the site lies with the settings of the RPG and listed buildings (LB).
65. The Heritage SoCG records agreement that there would be no harm to the significance of Great Barr Hall. As to the remaining HAs, the applicant and Ipa agree that there would be less than substantial harm to the CA, albeit there is disagreement of the scale of that harm. The Ipa finds less than substantial harm to the remaining HAs, whilst the applicant finds no harm. The SG&PT submit that the BESS would result in substantial harm to the significance of the RPG and the CA. The High Court has set out guidance on what is meant by substantial harm. Essentially, substantial harm is considered a high test, where a scheme would impact seriously on a key element of a HA's architectural or historic significance. Serious impact on the significance of an asset is such that it was destroyed altogether or very much reduced. The degree of harm is something I will return to later.
66. UDP Policies ENV27, ENV30, ENV32, BCCS Policies CSP3 and EN5 and WSAD Policy EN7 seek to protect CAs, LBs and the RPG from the adverse effects of

development. Framework paragraph 202 indicates that HAs 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.

67. Where a scheme affects the setting of a LB, S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving its setting or any features of special architectural or historic interest it possesses. S72 (1) of the same Act, requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a CA.

Conservation Area

68. The CA was first designated in 1976 covering the RPG and the area encompassed by Chapel Lane, Pinfold Lane and Old Hall Lane. In 1996, the CA was extended to include a substantial area of countryside to the north, east and west. The extent of the CA is currently under review and a draft CAAMP has been published. The CAAMP divides the CA up into 4 distinct areas and for the purposes of this assessment the relevant sub-area is Character Area A, the historic core of the Great Barr Hall Estate. This area coincides with the boundaries of the 1976 CA and the CAAMP recommends that the CA boundary be revised to encompass only this area. Thus, even if the boundary of the CA is reduced, the CA would still include the site within it.
69. Historic interest stems from association with the Scott family who occupied the area from the 14th to 20th century and through associations with Humphry Repton, John Nash and George Gilbert Scott, all of whom worked on various phases of the development of the Great Barr Hall and Estate. Architectural interest relates to the various listed buildings largely located within the historic core and the design and layout of the RPG.
70. The lpa acknowledge that the BESS would not impact on the architectural or archaeological significance of the CA. The concern is whether the development would affect the ability to appreciate or understand the historic significance of the site within the historic core of the CA. The site lies outside the former landscaped parkland of Great Barr Hall and formed part of the agricultural land associated with the estate. Considerable debate took place as to whether the site formed part of a "borrowed landscape" for the parkland. This was on the basis that (a) the use of "borrowed landscapes" was a technique employed by landscape designers associated with the development of Great Barr Hall and (b) the boundary between the park and the site consists of a mound with the remnants of a wall below it, formed a "ha-ha". This feature would allow users of the parkland to look out over the agricultural land whilst preventing animals from entering the designed landscape of the hall. Whilst the design of a ha-ha can take many forms, there is no real evidence, other than conjecture that it was designed as such or that the site formed part of that view. Even if there was the intention of a designed view, little remnant of that long view exists today. The landscape beyond the park is cut off by mature dense woodland that extends The Duckery to the north-east. Views out from the park are extremely limited and are only obtained from largely inaccessible areas. I consider that in relation to these aspects the site does not contribute to the significance of the CA.

71. Notwithstanding the above, the applicant agrees with the lpa, that the site does contribute to the significance of the CA through views obtained from Chapel Lane to The Duckery and the more recent addition. To this, I would add views from Chapel Lane north-eastwards across the site to the farmstead at Old Hall Farm and views back from Old Hall Lane across the open land to The Duckery and views, albeit they are limited, along Chapel Lane to the spire of St Margarets Church, where the site is on the periphery. The CAAMP notes that the open spaces in this part of Character Area A includes the important agricultural land north of The Duckery and bounded by Chapel Lane, Pinfold Lane and Old Hall Lane, which is associated with Old Hall Farm. Albeit the character and appearance this area is heavily influenced by the prominent, twin row of pylons and overhead lines, here, the BESS would introduce a utilitarian and industrial structure reducing the open and agricultural form of this part of the area.
72. Both the applicant and the lpa agree that the BESS would result in less than substantial harm to the CA and given the conclusions above and the threshold for substantial harm, I agree. Where the applicant and lpa disagree is where, on the spectrum of less than substantial harm, the effect of the BESS would sit. The applicant places the degree of harm at the lower end and the lpa judges it to be low to medium. Given the heavy influence of the pylons/overhead lines, notwithstanding the importance the CAAMP attaches to the contribution of this area the CA, I conclude that the BESS would result in *low level of less than substantial harm* to the significance of the CA.

Old Hall Farmhouse and Barn

73. The historic significance of these HAs is founded in their medieval origins and association with the Scott family who occupied the farmstead prior to purchasing the manor of Great Barr and constructing Great Barr Hall. Subsequently, the farm was tenanted and the agricultural fields, particularly those to the west, including the site, have a historical agricultural association with the Great Barr Estate. The architectural significance of these buildings is founded in their architectural detail. Old Hall Farmhouses dates from the early 17th century and the barn from around the mid-19th century. The architectural detailing and construction methods are indicative of the local vernacular. The setting of these buildings includes the agricultural land to the west recognised by the CAAMP as important.
74. These HAs are located some 300m to the north-east of the site with twin rows of pylon and overhead lines in the foreground. Whilst there are open views across the site to the farmstead, dense and what appears to be evergreen planting around the farmstead means, that only a small part of the tiled roof of the barn is visible. I agree with the applicant that the site makes no contribution to the appreciation of the architectural significance of these HAs. Rather, the ability to appreciate their architectural significance is largely confined the courtyard, garden and yard. As to appreciating the historic significance of the site, there is no longer a functional relationship between the farmstead and the Scott family. Whilst that remains a matter of historical record, there is nothing on the ground that allows that association to be appreciated. Albeit the view across the site to the HAs is limited, the barn is recognisable as an agricultural building, it can be identified as an agricultural building and there is, in my view, a recognisable association between the agricultural use of the land and this HA. The BESS would introduce a

utilitarian and industrial structure reducing the open and agricultural form of this part of the area. In this context, the BESS would result in less than substantial harm at the lowest end of that spectrum.

St Margarets Church

75. The historic interest of the church is founded in ties to the history of Great Barr, the growth of agriculture and a religious presence on this site from early medieval times. The architectural significance of the church relates to its structure dating from the 17th century and the ability to recognise various phases of its construction and reconstruction. The extensive graveyard adds to the church's heritage interest. The site is set some 360m to the north-east of the church separated from it by the wooded graveyard and the dense woodland of The Duckery. There are no views of the church from site or vice versa. The heritage significance of the church is largely experienced from that part of Chapel Lane fronting the church and the graveyard. The church is set on high ground and its spire would have acted as a focal point for the agricultural population of the wider area. Approaching the church from the north along Chapel Lane there is a limited view of the upper part of the spire, where the historic link to the agricultural base of the area can be appreciated, albeit tenuously. The site falls within the periphery of that view, and the introduction of the BESS would result in some *less than substantial harm at the very lowest level* on that spectrum.

Registered Park and Garden

76. The significance of this HA is largely historic and architectural. The RPG represents the focus of a manorial estate of medieval origins with associations to the Scott family who occupied it from the 14th to the 20th century, the work of several renowned landscape designers namely William Shenstone in the mid-18th century, Humphry Repton and John Nash in the late 18th century and George Gilbert Scott during the mid-19th century. In the 18th century the Lunar Society, whose ideas are thought to have contributed to the advent of the Industrial Revolution, met at Great Barr Hall. In terms of architectural significance, the RPG retains examples of listed and vernacular buildings associated with the development of the estate, some of which like Great Barr Hall are derelict. Of architectural interest are the lakes and planting and woodland blocks designed to attract certain views or to deflect others. Whilst these features contribute to the RPG's significance, it has to be recognised that neglect has compromised many aspects of the park reducing its legibility as an 18th/19th-century designed landscape.
77. The CAAMP notes that historically the RPG's setting was dominated by farmland and has an agricultural character. The assessment goes on to note that Old Hall Farm sits to the north of the RPG and that the associated farmland makes a positive contribution to the rural character and their historic associations with the estate. The value of the site to the significance of the RPG largely depends on whether it is accepted that the site formed part of a designed "borrowed view" redolent of the landscape designers associated with the development of this once great estate. Unfortunately, none of the plans produced by these designers are available, and the OS Maps do not specifically notate the boundary between the RPG and the site as a ha-ha.
78. Importantly, the listing description, which has been updated several times contains no mention of a ha-ha. Given the association of famous landscape

designers with the development of the estate, had the presence of a ha-ha and the importance of the "borrowed view" been seen as a feature contributing the significance of the RPG, one would expect it would have been featured. Given the reputation of the various designers associated with Great Barr Hall, the absence of a reference to this as a feature does not fall under the headings of an oversight or that not every feature is covered in the listing. As indicated earlier, whilst the design of a ha-ha can take many forms, there is no real evidence, other than conjecture, that it was designed as such or that the site formed part of that "borrowed" view.

79. The applicant accepted that an area in the northern part of the RPG would be subject to increased noise levels. However, the envelope where noise would be experienced would be relatively small and largely comprise woodland that is, for the most part inaccessible to all but the most determined walker. Moreover, the threshold referred to, 50 to 55dB, which the WHO guidance equates to moderate annoyance relates to external garden areas where individuals would be concentrated and linger. In this part of the RPG, people would be walking through, rather than lingering to take in any particular landscape feature. Moreover, there is already a level of noise experienced from the nearby A34 and M6. The lpa in determining harm to the significance of the RPG, link noise to the ability of walkers in this area appreciating the potential significance of the "borrowed view". Given the conclusions above, the limited impact of noise on the RPG from the BESS would not add to the potential for harm to the significance of the asset. In this context, none of the elements set out above that go to the architectural or historic significance of the park would be harmed by the development of the BESS. As such there would be *no harm* to the RPG.
80. Drawing all of the above together, on Issue 4 there would be less than substantial harm to the CA at the low of that scale. There would less than substantial harm at the lowest end of that scale to Old Hall Farm House, Old Hall Barn and St Margarets Church and no harm to the RPG.

Issue 5 – Noise

81. UDP Policies GP2 -Environmental Protection and ENV 10 – Pollution, seek to prevent unacceptable adverse effects from, amongst other things, noise. Framework paragraph 198 indicates that decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and quality of life. Reference is made to the Noise Policy Statement for England (NPSE) - Explanatory Note¹⁴. The Note recognises that noise exposure can cause annoyance and sleep disturbance both of which impact on quality of life and can give rise to adverse health effects.
82. The NPSE identifies 3 concepts, the first 2 of which are also applied by the World Health Organisation (WHO). These are:

NOEL – No Observed Effect Level, below which there is no detectable effect on health and quality of life due to the noise.

LOAEL – Lowest Observed Adverse Effect Level, above which there would be adverse effects on health and quality of life detected.

¹⁴ Department for Environment, Food & Rural Affairs, 2010.

SOAEL – Significant Observed Adverse Effect Level, above which there would be significant adverse effects on health and quality of life.

83. Through the effective management and control of noise within the context of Government policy on sustainable development, the NPSE has 3 aims. These are, (1) to avoid significant adverse impacts on health and quality of life, (2) to mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise. This refers to the situation where the impact lies somewhere between LOAEL and SOAEL requiring that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life. This does not mean that such adverse effects cannot occur. The third aim is to where possible, contribute to the improvement of health and quality of life. This aim seeks, where possible, positively to improve health and quality of life through the pro-active management of noise, recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. Achievement of these aims is sought within the context of Government policy on sustainable development.
84. PPG provides guidance on how planning decisions can manage potential noise impacts. The guidance includes a Noise Exposure Hierarchy Table (NEHT), which fleshes out the nature of the NOEL, LOAEL and SOAEL categories.
85. The NEHT describes the LOAEL as present and intrusive, where noise can be heard and causes small changes in behaviour, attitude or other physiological responses. In this category, there is potential for some reported sleep disturbance. Noise affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life. The action response is to mitigate and reduce to a minimum.
86. The SOAEL is described as present and disruptive, where noise causes a material change in behaviour, attitude or other physiological response. In this category, there is potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life is diminished due to change in the acoustic character of the area. The action response is to avoid.
87. I consider, after reviewing all the evidence, that the background noise levels set out in the August 2023 Noise Impact Assessment Report for the 3 nearest residential properties, Noise Sensitive Receptors (NSR) are a reasonable starting point. There are no issues between the parties regarding day-time noise, the concern relates to night time noise levels. The key concerns relate to, the predicted night-time sound levels after mitigation¹⁵ based on, the absence of Acoustic Feature Corrections (AFC), and the application of a 15dB attenuation for a partially open window. The AFCs relate to intermittency and low frequency noise (LFN).
88. Paragraph BS 8233:2014¹⁶ indicates that for steady external noise sources, the desirable indoor ambient noise levels for sleeping between 2300 to 0700 hours should not exceed 30 dB $L_{Aeq,8hours}$ (Table 4). Table 4 relates to noise without character. Paragraph 7.7.1 notes that noise has a specific character if it contains features such as a distinguishable discrete and continuous tone, is

¹⁵ The provision of an acoustic barrier on 3 sides of the BESS compound.

¹⁶ Guidance on Sound Insulation and Noise Reduction for Buildings, BSI Standards Publication

irregular enough to attract attention, or has strong low-frequency content in which case lower noise limits might be appropriate. Annex G, G.1 indicates that if partially open windows are relied upon for background ventilation, the insulation factor would be reduced to approximately 15 dB. This reference is subject to a footnote indicating that the level difference through a window partially open for ventilation can vary significantly depending on the window type and the frequency content of the external noise. If the specific details of the window and external noise are known, the value for insulation may be adjusted; either up or down. The World Health Organisation (WHO) Guidelines for Community Noise notes¹⁷ that if negative effects on sleep are to be avoided the equivalent sound pressure level should not exceed 30 dBA indoors for continuous noise.

89. IT is recognised that LFN can disturb rest and sleep and a large proportion of low frequency components in noise may increase the adverse effects on health. Whilst I fully recognise the lpa's concerns regarding LFN, the manufacturer's test evidence on the operation of BESS units does not appear to indicate the presence of a prominent or large proportion of LFN such that here it requires specific consideration or the use of a dB (C) weighting. I acknowledge, that the WHO guidelines recognises that the use of the C-weighting for the sound level of noise with low frequency components would give a better assessment of potential health effects. That said, WHO guidelines also indicate that the difference between dB (C) and dB(A) only gives crude information, and the evidence suggests that the use of an NR curve would be more appropriate. Moreover, as I understand it, NR curves defines limits at different frequencies that allows the character of the noise to be defined or controlled. Thus, I consider it is unnecessary to include an AFC to account for tonality. Moreover, to construct a planning condition containing A-weighted, C-weighted and NR curve limits would result in unnecessary duplication.
90. As to intermittency, in the applicant's noise assessment, an allowance of 3 dB (A) was included in the BS4142 assessment of day time and night time sound levels. However, after mitigation, comprising a 2.8m high acoustic barrier, the AFC was considered unnecessary. Given that the BS 8233 guidance is based on steady external noise sources, it appears to me that including an AFC of 3dB (A) with mitigation is a sensible approach. On this basis, the resultant external noise levels at NSR 1, NSR 2 and NSR 3 would be 8, 6 and 4 dB above background respectively. Using BS 4142, +8dB would fall almost midway between an adverse and significant adverse impact and +4 and +6 dB would be classed as an adverse impact. Unlike BS4142, the NEHT in PPG does not attach particular sound levels to the LOAEL and SOAEL categories. Rather as outlined above, it provided examples of outcomes. Thus, the BS 4142 descriptors cannot be read directly across to the NEHT. Looking at each of these descriptors, it is my judgement that these noise levels would fall within the LOAEL category where the guidance is to mitigate and reduce to a minimum.
91. I am conscious of the advice in BS8233 regarding the 15 dB ascribed to the attenuation achieved by a partially open window and the note relating to the potential variations relating to window type. I acknowledge that the applicant has not provided any detail regarding the nature of the windows at the NSRs; but neither has the lpa. The 15 dB allowance is used universally in Noise

¹⁷ Page 28.

Assessments, and I have yet to come across an assessment that included adjustments for window type. Indeed, it would be almost impossible for an applicant or indeed a lpa to undertake that type of detailed assessment given, as here, the affected properties would mostly be private dwellings. As such, I consider that it is reasonable to use 15 dB as a benchmark for determining the potential impact on bedrooms.

92. On the above basis, only one dwelling, NSR 1, would potentially be subject to an internal noise level above the BS8233 guideline value of 30 dB $L_{Aeq,8hours}$. Here, the calculated level would be 31 dB $L_{Aeq,8hours}$. However, a 1 dB difference is generally regarded as imperceptible, and as such any adverse impact would be marginal resulting in limited harm to residential amenity. Such an approach would be consistent with the NSPE, whose policy vision is to enable decisions to be made regarding what is an acceptable noise burden to place on society. Moreover, a condition is suggested that would provide for final approval of the proposed acoustic fence before development could commence, which would allow for the potential for disturbance to be further mitigated. On this basis there would be limited conflict with UDP Policies GP2 and ENV 10.

Issue 6 - Agricultural Land

93. The site is B&MV¹⁸ agricultural land which UDP Policies ENV6 and GP2 seek to prevent the loss of. Framework Paragraph 180b says that decisions should, amongst other things, recognise the economic and other benefits of B&MV land. The lpa refers to Framework paragraph 181 and Footnote 62. The footnote indicates that where significant development of agriculture is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The footnote goes on to say that the availability of agricultural land used for food production should be considered alongside other policies in the Framework, when deciding what sites are the most appropriate for development. Natural England, the government's statutory advisor, does not have to be consulted on proposals on agricultural land of less than 20ha. That is one indication of what might be regarded as significant.
94. Part of the site would be occupied by the BESS with the balance used to provide for Biodiversity Net Gain (BNG) and not grazing or arable use. The manner in which land is farmed is not subject to planning control. Thus, even if planning permission is refused, there is nothing that prevents the landowner from using the site for grazing or leaving it unused. Indeed, resting that part of the site used for grazing would have the benefit of improving the soil's health/structure for when the land would revert to agriculture at the end of the 40-year life of the BESS.
95. Framework paragraph 181 and Footnote 62 is directed at plan making and not decision making, and it is a moot point whether these references are relevant to a development application. That said, for completeness, the lpa's concerns regarding significant loss and harm to food security are addressed. What constitutes "significant development" for the purpose of considering the effect on B&MV land is not defined in either the development plan or the Framework and is a planning judgement.

¹⁸ Land in Grades 1,2 and 3a of the Agricultural Land Classification. Framework Annex 2 – Glossary.

96. The site is located at the southern end of an extensive wedge of land, stretching from Brownhills in the north to Great Barr in the south and Walsall in the west to Streetly in the east. This area extends to some 2,300ha and whilst not all is in agricultural use, the Agricultural Land Classification map shows it as mostly Grade 3. This is a substantial area and whilst 40 years is a long time, in the grand-scale of land-use change, the temporary loss of some 3.19ha from potential agricultural use cannot reasonably be regarded as “significant” either in terms of size or current use. Given this conclusion it is unnecessary to consider further whether it should have necessary to show that areas of poorer quality were considered.
97. World events and the adverse effects of climate change have brought food security into sharper focus. That said, at the end of 2022, DEFRA¹⁹ identified that the UK’s food supply chain remains highly resilient with the nation’s high degree of food security being built on supplies from diverse sources. There is nothing to indicate that that conclusion has changed. The site is not used for food production and from comments made about former uses, it has not been used for food production for some considerable time. Whilst there is the potential for food production, with the BESS, that potential would not be permanently lost. Planning conditions relating to soil storage and restoration would ensure that the site would be potentially available for food production once the use ceased, and the site restored. In these circumstances, the temporary use of this site for non-agricultural purposes would not materially or adversely affect the nation’s food security.
98. Drawing the above together, the proposal would result in the temporary loss of the potential to use a small area of B&MV land for food production. The site does not currently contribute to the nation’s ability to maintain a secure food supply, and in light of the DEFRA conclusions above there is nothing to suggest that the temporary loss of the potential to use the site for food production would be material. The proposal would not conflict with Framework policy. On its face, UDP Policy ENV6 criterion (a) does not appear to allow for the loss or temporary loss of the land from agriculture to be balanced against other material considerations. In that context, the proposal would conflict with UDP Policy ENV 6 and by association UDP Policy GP 2.

Other Matters

99. The applicant lists under the heading of benefits several factors. These are contributing to energy security and mitigating climate change, a confirmed grid connection, BNG, hedgerow planting, an absence of alternative sites and economic benefits. These are, a mixture of measurable benefits and material considerations. Of those listed above, I consider contributing to climate change/energy security, BNG, hedgerows and economic matters would fall to be considered as public benefits of the development. The remainder are material considerations to be weighed in the heritage and GB balance.
100. In paragraphs 34 to 38 matters relating to climate change/energy security and at paragraphs 31 and 32 matters relating to alternative sites have been covered and are not repeated here. However, I consider the weight that to be attached to these matters. The imperative of mitigating climate change, achieving net-zero, and the ability of this project to make an early

¹⁹ Department for Environment, Food and Rural Affairs.

contribution to the clean power pathway are significant public benefits and attracts **great** weight.

101. There is no requirement either in Framework policy or the development plan for a developer to undertake an alternative or sequential site assessment. The Courts have held, that the task of a decision maker is to consider the planning merits any particular planning application and as such planning law does not require the decision maker to consider whether the proposed development would be more appropriately located at an alternative site. That said, the Courts have held that there may be exceptional circumstances such that a potential alternative is a material consideration which the decision maker either must have regard to, or may have regard to, in the exercise of planning judgment. Although the site is within GB, a CA and within the settings of 4 listed HAs, this location is not, on its own or cumulatively, a bar to development. However, whilst the location of the site does not represent an exceptional circumstance, an ASA has been submitted and it is a material consideration that attracts **significant** weight.
102. Given the hedgerow/tree planting elements are included to screen the proposal and to mitigate the landscape and visual impact of the BESS, I have considered it together with BNG. This is not an application where the statutory 10% BNG is required. The predicted BNG gains²⁰ are a 42% increase in habitat units and a 638% gain in hedgerow units. Whilst the BESS is a temporary feature, the habitat gains particular the hedgerow gains and the contribution they would make in terms of providing new and enhanced wildlife corridors is a benefit that attracts **significant** weight. It is agreed that there would be some economic benefits that would flow from employment during construction, operation and decommissioning of the BESS that attract **limited** weight. Given the benefits are unquantified, I have no reason to conclude otherwise.
103. Concern was expressed that during the construction and decommissioning phase, additional traffic on Chapel Lane would have an adverse impact on the condition of the road and nearby HAs through ground-borne vibration (GBV). The impact of additional construction on the state of the highway is a matter than could be dealt with by way of conditions that require the developer to undertake pre and post construction surveys of road conditions, and, where necessary, implement an agreed programme of reinstatement.
104. Referring to a BS standard code of practice²¹ and a research study on traffic induced vibrations²², the applicant provided a written statement on the potential effects of GBV. This report notes that minor or major damage might only occur at very high values of GBV, and a building of historical value should not, unless it is structurally unsound, be assumed to be more sensitive. TRRL 246 notes that case studies of heritage buildings of varying age and type of construction exposed to relatively high levels of traffic vibration showed no evidence that traffic vibration had caused the observed damage. Moreover, wider search did not show evidence of damage caused by exposure to traffic vibration. Accordingly, there is no evidence to support the assertion that here traffic vibration could result in significant damage to buildings.

²⁰ Percentages are rounded up or down to the nearest whole number.

²¹ BS 5228-2:2009+A1:2014: Code of Practice for Noise and Vibration Control on Construction and Open Sites – Part 2: Vibration.

²² Traffic Induced Vibrations in Buildings, Transport & Road Research Laboratory Research Report 246 (TRRL 246).

105. Construction traffic would use the A34 Birmingham Road/Chapel Lane junction to access the site. Vehicles approaching from Junction 7 of the M6 use a dedicated right-turn lane into Chapel Lane. For traffic approaching from the Walsall direction, the carriageway is 3 lanes wide, 2 for general traffic going forward and turning left and an inner lane solely for bus use. The junction is traffic light controlled to avoid conflict between vehicles turning right or left into Chapel Lane. All traffic leaving Chapel Lane has to turn left. In the absence of an objection from the Highway Authority, I have no reason to conclude that use of the A34/Chapel Lane junction by construction traffic would have unacceptable effect on highway safety.
106. Following a fire at a BESS site in Liverpool in September 2020²³, concern was expressed that the BESS would represent an unacceptable safety risk. The application was accompanied by a Fire Safety Strategy and the West Midlands Fire and Rescue Authority has no objection. To address these concerns, the applicant submitted a Battery Safety Technical Note relating to fire mitigation, emergency response and clean-up measures.
107. At the Liverpool BESS, the type of battery used was nickel manganese cobalt, a type prone to “thermal runaway” where internal overheating leads to a fire or explosion. The note highlights that battery technology has moved on and the key difference here is that the BESS would use lithium iron phosphate batteries. This type of battery is more stable at high temperatures and far less prone or susceptible to thermal runaway and have a longer cycle life. In formulating its response, the Fire Service would have been aware of the Liverpool incident and taken it into account. The inquiry was provided with details of Health and Safety Guidance for Grid Scale Electrical Energy Storage Systems March 2024 prepared by the Department for Energy and Net Zero. The provision of an updated Fire Safety Strategy is a matter that could be dealt with by condition. There is nothing in the submissions that leads me to conclude that the development and operation of the BESS would be unsafe.
108. I have noted the concerns expressed regarding the effect of the proposal on local wildlife and horses kept within the wider area. The application was accompanied by an Ecological Impact Assessment. There is nothing before me to suggest that the proposal would have a material adverse impact of local fauna and the lpa have no objection to the BESS on ecology or biodiversity grounds. Mitigation would include, fauna enhancement measures, and enhanced monitoring. Appropriate mitigation works could be the subject to conditions requiring the submission of details relating to construction, environmental, landscape and ecological management plans. There is nothing before me to suggest that the BESS would have an unacceptable effect on local fauna. Indeed, the replanting of the balance of the site as grassland would provide an enhanced habitat for local wildlife.
109. The keeping and exercising of horses in the area is already subject to existing and traffic and road noise. In terms of noise, the nothing before me to support the assertion that potential noise from the BESS would have a material effect on the welfare of the local horse population. Whilst there would be an increase in traffic using Chapel Lane during the construction and decommissioning phases, this would largely use the lane between the site and

²³ The only reported BESS major fire in the UK.

the A34. I saw that for the most part the areas used for the grazing of horses were mainly to the north.

Heritage Balance

110. On heritage matters, the nature of the Framework requires that before carrying out a Planning Balance or the Green Belt Balance²⁴ a Heritage Balancing exercise is to be undertaken. Framework paragraph 212 advises that when considering the impact of a development on the significance of a designated HA, great weight should be given to its conservation and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 215 indicates that where a development proposal would lead to less than substantial harm to the significance of a HA, this harm should be weighed against the public benefits of the proposal.
111. Great weight is accorded to the potential harm to the 4 HAs, the CA, the listed buildings at Old Hall Farm and St Margaret's Church. Balanced against this, the early contribution the BESS would make to the acknowledged need for battery storage to assist in mitigating the effects of climate change and maintaining energy security attracts great weight. The absence of alternative sites and BNG attract significant weight and the economic benefits attract limited weight. Given their scale and nature, these public benefits outweigh the low level of less than substantial harm to HAs. The less than substantial harm to the HAs does not provide a clear reason for refusing the BESS.

CONCLUSIONS

Conclusion in a scenario where the development accords with Framework paragraph 155.

112. This proposal would utilise Grey Belt land and having regard to the provisions of Framework paragraph 155, the development would not comprise inappropriate development in the GB.
113. The great weight attached to the contribution to mitigating climate change and to energy security, albeit temporary, the significant weight to the absence of alternative sites and the potential for permanent BNG and the limited weight the temporary economic benefits generated by the proposal outweighs the temporary Moderate/Minor adverse landscape and visual effects, the less than substantial harm to HAs and the limited harm to residential amenity through noise. Subject to the imposition of conditions, the proposal would not conflict with the development plan when read as a whole or the Framework.
114. For the above reasons and taking all other matters into account, the appeal is allowed, and planning permission granted.

Conclusion in the scenario where the development would be inappropriate development in the Green Belt – Issue 7.

115. Framework paragraph 153 requires the decision maker to give substantial weight is given to any harm to the GB, including harm to its openness. Inappropriate development is, by definition, harmful to the GB and should not

²⁴ A conclusion as to whether Very Special Circumstances exist.

be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

116. The great weight attached to the contribution to mitigating climate change and to energy security, albeit temporary, the significant weight attached to the absence of alternative sites and to the potential for permanent BNG and the limited weight the temporary economic benefits generated by the proposal clearly outweighs the temporary Moderate/Minor adverse landscape and visual effects, the less than substantial harm to HAs and the limited harm to residential amenity through noise. Accordingly, taking the case as a whole, very special circumstances exist which justify the development.
117. I conclude that the benefits of this proposal, clearly outweigh the harm to the Green Belt and the other harms identified such that very special circumstances exist to justify this proposal. Subject to the imposition of conditions, the proposal would not conflict with the development plan when read as a whole or the Framework.
118. For the above reasons and taking all other matters into account, the appeal is allowed, and planning permission granted.

Conditions

119. The lpa has provided a list of suggested conditions that have been assessed in light of PPG advice and comments submitted by the applicant. The suggested conditions contain several pre-commencement conditions, which that applicant has confirmed in writing are acceptable.
120. In the interests of certainty, a condition listing the approved plans is imposed (2). In the interests of clarity, a condition relating to site security (28) is necessary.
121. The BESS is required for a period of 40 years. Conditions are necessary to confirm the extent of the temporary period, to provide for removal of the BESS when the permission expires or if it ceases to operate (3 ,4 & 5).
122. In the interests of highway safety, conditions relating to the access (7), visibility (8) and the condition and reinstatement of the carriageway (9, 10 & 11) are reasonable and necessary.
123. In the interests of the appearance of the area, conditions relating to, site levels (6), the finish of the storage containers (25), details of tree and hedgerow planting (15), boundary treatments (22), implementation of landscape mitigation (23), and external lighting (27) are reasonable and necessary.
124. In the interests of protecting living conditions, conditions relating to construction management (11), noise (13 & 14) Fire Safety (24), and lighting (27) are reasonable and necessary. On noise, I consider it unnecessary to include within the condition a dB (c) criterion. As discussed above, its inclusion would duplicate the effect of imposing a NR Curve element. Similarly, I consider the lps's suggestion of a 40 dB limit and a NR curve of 35 to be unreasonable. In the interests of flood prevention, conditions relating to drainage are reasonable and necessary (17 & 18). In the interests of ecology,

conditions relating to landscape and ecological management (18, 19 & 20) and construction environment management (21) are reasonable and necessary.

George Baird

Inspector

ANNEX A - SCHEDULE OF CONDITIONS

Implementation

1. The development hereby permitted shall be begun not later than the expiration of 3 years from the date of this permission.

Plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location & Block Plan, drawing no. C0002457_03 Rev. C, ESS Containers Plans and Elevations, drawing no. C0002457_04C, Customer Substation Plans and Elevations, drawing no. C0002457_08 Rev. B, Site Layout, drawing no. C0002457_02 Rev P, Visibility Splay, drawing no. 2108013-06 Rev B, Substation Plan & Elevation, drawing no. C0002457_06 Rev D, and Tree Protection Plan, drawing no. 404.064032.00001 Rev 04.

Temporary period

3. Planning permission is granted for a temporary period only and shall cease to have effect 40 years following the date of receipt of the Final Operational Notification (FON) from the District Network Operator (DNO) (or equivalent organisation). The FON shall be submitted to the local planning authority within 14 working days of the date of its receipt from the DNO.
4. In the event the development ceases to export electricity to the grid for a continuous period of 12 months, a scheme of restoration for the removal of the Battery Energy Storage Facility and any associated equipment, shall be submitted to and approved in writing by the local planning authority within 3 months from the end of the 12-month period. The restoration scheme shall include details of the retention of any approved boundary treatment(s) and planting. The approved scheme of restoration shall then be fully implemented within 6 months of written approval being given.

Decommissioning

5. Eighteen months before the end of the 40-year period taken from the FON date submitted under condition 3, a scheme of restoration shall be submitted to and approved in writing by the local planning authority including:
 1. details of the retention of any approved boundary treatment(s) and planting, a restoration scheme to be used at the end of the operational lifespan of the development.
 2. a written scheme of restoration for returning the site to a pasture field on cessation of energy storage at the site.The approved scheme of restoration shall be implemented and completed within 12 months of the end of the 40-year period taken from the date submitted under condition 3.

Site Levels

6. No development shall take place, until a plan showing existing and finished site levels in general conformity with Indicative Site Section Plan No. C0002457_14 Rev B, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Access & Visibility Splay

8. No development shall take place until details for the construction and design of the access entrance and internal access road, including land profiles, associated signage and cross sections and construction materials has been submitted to and approved in writing by the local planning authority. The access shall be provided in accordance with the approved plans prior to the commencement of any other works and thereafter retained. Surface water from the access entrance and access road path shall not run on to the public highway or into any highway drain at any time.
9. The visibility splays as shown on Plan No. 2108013-06 Rev B shall be kept free of all structures and vegetation between 600mm and 1050mm above carriageway level at all times. The visibility splays shall be implemented before the first use of the access hereby approved and thereafter retained in the approved form.

Highways Condition Survey

9. No development shall take place and no construction traffic shall enter the site until a Highways Method Statement setting out the details for pre-development and post-construction highway dilapidation surveys, along the section of Chapel Lane from the Borough boundary at the Coronation Road junction to the proposed site access has been submitted to and approved in writing by the local planning authority.
10. No development shall take place and no construction traffic shall enter the site until a pre-development highway dilapidation survey undertaken in accordance with the approved Highways Method Statement has been submitted to and approved in writing by the local planning authority.
11. Within one month of the FON referred to in condition 3, a post-construction highway dilapidation survey shall be undertaken in accordance with the approved Highways Method Statement and a scheme of mitigation works including a timetable for their implementation shall be submitted to and approved in writing by the local planning authority. The scheme of mitigation works shall be carried out in accordance with the approved timetable for implementation.

Construction Environmental Management Statement

12. No development shall take place, until a Construction Environmental Management Statement (CEMS) has been submitted to and approved in writing by the local planning authority. The CEMS shall include details of:
 1. construction working hours,
 2. parking and turning facilities for vehicles of site operatives and visitors,
 3. loading and unloading of materials,
 4. storage of plant and materials used in constructing the development,
 5. a scheme for recycling/disposing of waste resulting from construction works,
 6. temporary portacabins and welfare facilities for site operatives,
 7. site security arrangements,
 8. wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway,
 9. measures to prevent flying debris,

10. dust mitigation measures,
11. measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper),
12. noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures.

The approved CEMS shall be adhered to throughout the construction period.

Noise

13. No development shall take place until a detailed specification of acoustic boundary treatment in general conformity with Typical Acoustic Fence Details Plan No. C0002457-09 Rev A has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained for the lifetime of the development.
14. The development shall meet the following external acoustic criteria at any occupied premises used for residential purposes, determined by measurements, calculations and/or procedures agreed in writing by the local planning authority.

Between the hours 23.00 and 07.00 at a position 1 metre from any façade, excluding corrections for facade reflection effects -

- $L_{Aeq,15 \text{ minutes}}$ 45 dB
- Noise Rating NR 40 over any 15-minute period

Within 4 months of the development being brought into operational use, compliance with the stated criteria shall be verified to the local planning authority in writing and compliance shall be maintained thereafter.

Tree Protection Measures

15. No development shall take place until the tree protection measures as set out in the Arboricultural Report (SLR 23 November 2023) 404.P64032.00001, and as shown on Tree Protection Plan 404.064032.00001 Rev 04, shall be implemented. The tree protection fencing shall be erected in accordance with BS 5837: 2012 and retained throughout the construction phase until completion of the development.

Drainage

16. No development shall take place until a Construction Surface Water Management Plan (CSWMP) has been submitted to and approved in writing by the local planning authority. The CSWMP shall show how flood risks will be managed prior to the completion of an approved drainage strategy. The approved measures for the control of surface water shall be implemented as part of any temporary works associated with the permanent development to ensure that flood risk is not increased.
17. No development shall take place, including any site clearance, preparatory, groundworks or any breaking ground, until a detailed surface water drainage design in general conformity with Preliminary Surface Water Drainage Layout

Plan no. 402.065384.00001_PDL_01-P06 has been submitted to and approved in writing by the local planning authority. The design shall include:

- i. Drainage Method - A detailed drainage plan including infiltration testing results where necessary in accordance with BRE Digest 365, cover levels, invert levels and proposed SuDS. Existing and proposed discharge rate calculations shall be submitted with the discharge rate restricted to greenfield run off rates as mentioned in S2 & S3 of the technical standards for SuDS.
- ii. Hydraulic Calculations - Full background calculations (Micro Drainage or similar) to demonstrate the performance of the surface water drainage system for a range of return periods and storm durations. To include as a minimum the 1:1, 1:2, 1:30, 1:100 and 1:100+40%CC return periods.
- iii. Water Quality - Supporting information to demonstrate that sufficient water quality measures have been incorporated into the design for all sources of runoff in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria.
- iv. Management & Maintenance - A Management and Maintenance Plan for surface water drainage to demonstrate that surface water drainage systems will be maintained and managed for the lifetime of the development. This shall include a schedule of activities including the frequencies of each activity to be undertaken. Provide the name, contact details and address of the party/parties responsible for the maintenance.
- v. Exceedance - Exceedance plans illustrating flooded areas and flow paths of all hardstanding and soft landscaping in the event of exceedance of the drainage system including drainage levels.

Landscape and Ecological Management Plan

18. No development shall take place until, a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by, the local planning authority. The content of the LEMP shall be in general conformity with the Draft Ecological Impact Assessment and Biodiversity Net Gain metric (SLR 21 October 2024) 424.064816.00001 V2 and shall include the following.

1. description and evaluation of features to be managed,
2. ecological trends and constraints on site that might influence management,
3. aims and objectives of management,
4. appropriate management options for achieving aims and objectives,
5. prescriptions for management actions,
6. preparation of a work schedule,
7. details of the body or organisation responsible for implementation of the plan,
8. ongoing monitoring and remedial measures,
9. the locations and installation of 3 bat boxes, 3 pole-mounted bird boxes and one pole-mounted barn owl box,

10. details of an invasive species strategy to remove Himalayan Balsam.

The LEMP shall include details by which the long-term implementation of the plan will be secured for the operational life span of the development by the developer with the details of management body(ies) responsible for its delivery. The development shall be carried out in accordance with the approved details.

19. Biannual monitoring inspections shall be undertaken by a suitably qualified ecologist for the lifetime of the development following the date of the FON specified in condition 3 and shall correspond with the Ecological Impact Assessment and Biodiversity Net Gain metric (SLR 21 October 2024) 424.064816.00001 V2. Inspections shall include the following:
1. inspection and, where required, cleaning of the pole mounted bat and bird boxes.
 2. inspection of hedgerow survival, establishment and management.
 3. assessment of the establishment and management of areas of grassland.
20. A monitoring report shall be submitted to and agreed in writing by the local planning authority in years 1, 2, 5, 10, 15, 20, 25, 30, 35 and 40 and shall include details of ongoing management protocols to meet targets.

Construction Environment Management Plan (CEMP)

21. No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
1. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts to ecology during construction (may be provided as a set of method statements),
 2. precautionary working practices in respect to badgers, bats, great crested newts, nesting birds and white-clawed crayfish,
 3. details of any planned vegetation removal outside bird nesting season (Sept to Feb),
 4. sensitive construction lighting scheme to avoid light spill to protect bats, detailing the provision of lighting across the site, in accordance with guidance outlined in Note 08/18 bats and artificial lighting in the UK, Bats and the Built Environment Series, BCT, 2018,
 5. responsible persons and line of communication,
 6. protective measures to create a buffer zone from the Duckery Site of Importance for Nature Conservation (SINC),
 7. the times during construction when specialist ecologists need to be present onsite to oversee works,
 8. the role and responsibilities onsite of an ecological clerk of works (ECoW) or similarly competent person; and
 9. use of protective fences, exclusion barriers and warning signs.

The development shall be carried out in accordance with the approved CEMP and the approved CEMP shall be adhered to and implemented throughout the construction period.

Boundary treatments

22. No development shall take place until details of all internal site treatments and site boundary treatments, including heights, positions and extent, materials and finishes of all walls, fences, gates or other means of enclosure

including hedgerows in general conformity with the details shown on Site Layout plan no. C0002457_02 Rev P have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the site boundary treatments shall thereafter be retained. All gates shall be designed and installed so they cannot open outwards onto a highway.

Landscape and Planting Plan

23. No development shall take place until, a Landscape Maintenance and Management Plan (LM&MP) including details of both hard and soft landscape works and earthworks which follows the principles of the approved Landscape Strategy Plan no. 35146 LN-LP-06 Rev G has been submitted to and approved in writing by the local planning authority. The LM&MP shall include:

- a) a plant schedule to comprise species, plant sizes, proposed numbers and density,
- b) planting specification,
- c) details of tree pits,
- d) hedge restoration details and formation methods,
- e) Tree and hedgerow protection measures to prevent damage from domestic and wild animals.

The soft landscape proposals shall be implemented in the first planting season after construction. If within a period of 10 years from the date of the planting of any tree, shrub or plant, that tree, shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and/or becomes seriously damaged or diseased in that period, another tree, shrub or plant of the same species and size as that originally planted shall be planted at the same place in accordance with the agreed LM&MP.

Updated Fire Safety Report

24. No development shall take place until a revised Fire Safety report has been submitted to and agreed in writing by the local planning authority. Before the FON date set by condition 3, the measures contained within the updated Fire Safety Report shall be implemented and thereafter retained for the lifetime of the development.

Soil Management

25. No development shall take place until a Soil Management Plan, which demonstrates how soils will be protected and where necessary, stored and managed on the site during construction, and during the life of the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Details of battery unit finish and colour

26. Before the installation of the battery storage units and associated equipment, details of the RAL colour of the exterior finish proposed shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.

External lighting and security

27. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
28. Before the installation of the low-level beam security system, details of the low-level beam security measures, as shown on Site Layout drawing no. C0002457_02 Rev P, shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out other in accordance with the approved details and thereafter retained for the lifetime of the development.

Annex B - APPEARANCES

FOR THE APPLICANT

Stephanie Hall, Counsel instructed by Stantec.

She called.

Nick Pleasant BA (Hons), Dip TP, MRTPI
Planning Director, Stantec.

David Webster CMLI, MA, MSc, BSc.
Landscape Planning Associate Director, Stantec

Chris Morley BA MPhil, MCIfA.
Head of Cultural Heritage, ERM.

Mike Barrett BSc (Hons), PGDipIOA, MIOA.
Associate Director, Acoustics.

FOR THE LOCAL PLANNING AUTHORITY

Dr Ashley Bowes, Counsel instructed by Alison Sargent, Legal & Democratic Services, Walsall Metropolitan Borough Council.

He Called.

Stuart Ryder BA (Hons), Dip LA (Dist), CMLI.
Director, Ryder Landscape Consultants Limited.

John Grant CEng, CSci, MSc, MIOA, FRSPH, MIEnvSC.
Environmental Protection Manager, Walsall Metropolitan Borough Council.

Devinder Matharu MA, Dip TP, BA (Hons).
Conservation Officer, Walsall Metropolitan Borough Council.

Mike Brereton AdDip, MA, ILM.
Head of Planning and Building Control, Walsall Metropolitan Borough Council

FOR THE STAFFORDSHIRE GARDENS & PARKS TRUST

Alan Taylor MA, Dip TP, IHBC (Ret).
Chair of the Staffordshire Gardens and Parks Trust.

Interested Persons

D Coxon
P Simon
M Smith
Y Chohan
D Randal
M Shepherd
J MacNamara for Wendy Morton MP for Aldridge Brownhills
R Winkle Chair Beacon Action Group
C Hatfield
H Salter
J Hume
S Lambert

J McCarthy
J Bench Director, Matrix Academy Trust
Dame M Brennan Matrix Academy Trust

ANNEX C - PUTATIVE REASONS FOR REFUSAL

1. The proposal is inappropriate development in the Green Belt for which no very special circumstances are advanced which outweigh the harm to the Green Belt and any other harm. The proposal is therefore contrary to NPPF paragraphs 152, 153 and 156, BCCS policy CSP2 and ENV7, SAD policy GB1 and UDP saved policies GP2, ENV6 and ENV7.
2. The proposed development, by virtue of its loss of a sensitive area of open land would result in significant harm to the character and appearance of this valuable rural area and would fail to respect the intrinsic qualities or beauty of this area of countryside. The proposal is therefore contrary to NPPF paragraph 180(b), BCCS policies CSP3 and ENV2, SAD policies GB1 and EN5 and saved UDP policies GP2, ENV6, ENV7 and ENV30 and Designing Walsall SPD.
3. The replacement of an open agricultural field with this development and associated infrastructure (including but not limited to the multitude of fencing types and other paraphernalia such as the 15 m high telecom mast, substation, control kiosks and CCTV cameras on 4 metres high posts) would significantly reduce the contribution the site makes to the character and appearance of the Conservation Area. Moreover, the development would reduce the contribution the site makes to the significance of the Great Barr Hall Registered Park and Garden listed buildings contrary to BCCS policies CSP3 and ENV2, SAD policies GB1 and EN5 and saved UDP policies GP2, ENV6, ENV7 and ENV30 policy and s.66 and 72 Planning (LB & CA) Act 1990.
4. The planning application fails to demonstrate that the visibility splays are shown to the kerb line and that the existing hedgerow obstruction has been addressed on the submitted plans to ensure adequate visibility at the proposed new site access. The proposal would be contrary to BCCS policy TRAN2 and SAD policy T4.
5. The proposed development would result in the loss potential use of agricultural land classified as Best and Most Versatile agricultural land for a period of 40 years which could potentially support future food security. Furthermore, historic mapping illustrates this land was originally utilised for agricultural purposes. This proposal is considered unacceptable and would be contrary to NPPF paragraph 180(b) and saved UDP policies GP2 (xi) and ENV6.
6. The proposal fails assess risks to groundwater and the water environment, and ensure robust mitigation is in place for containment of fire-fighting water in the event of a fire nor includes details of multiple 'layers of protection' to prevent the source-pathway-receptor pollution route occurring. Contaminated surface water run-off and ground water could have a potentially significant detrimental impact on the Duckery SINC, Holbrook stream (formerly known as Hall Brook) and protected species White Clawed Crayfish during a fire incident. In addition, to the fire incident itself causing the breakup of equipment which could introduce loose particles of heavy metals to the ground and bare surface, which during rainfall could be leached into the soil and ground water resulting in significant harm to the natural environment. The application fails to demonstrate engagement with local Fire Rescue Service to develop a comprehensive risk management process leading to the creation of robust Emergency Response Plans to consider water supply and drainage in emergency situations. The

proposal fails to accord with the aims and objectives of BCCS policy ENV1, SAD policy EN1, saved UDP policies GP2, ENV10 and ENV23, Conserving Walsall's Natural Environment SPD and the Management and Enhancement and Wildlife and Countryside Act 1981.

7. Saved UDP policy ENV13 states that development for uses other than industry or warehousing will not normally be permitted in close proximity to high voltage electricity transmission lines, substations or transformers. As the proposed use is not for industry or warehousing this proposal fails to meet the requirements of this policy, which also requires the appropriate operational safe clearances to be met. The policy justification text sets out a required zone of separation of at least 50 metres from pylons and overhead cables. The Site is within the 50m zone of separation as the power lines run through the middle of it and the compounds for the battery storage units and substation are directly adjacent to the power lines and the proposal is contrary to saved UDP policy ENV13.
8. The proposed BESS site together with the 15m high mast, acoustic fencing, palisade fencing, deer fencing, and other fencing, CCTV posts and cameras would be harmful to the significance of Great Barr Hall Registered Park and Garden, Old Hall Farmhouse, and the Barn approximately 20 metres north of Old Hall Farmhouse and the Church of St Margaret. It would introduce incongruous modern alien industrial dominant features into their setting, that are utilitarian in appearance, into the rural agricultural and historical landscape, that would be visually dominant and detrimental, and which would alter the rural character of the site effecting the way in which we experience and appreciate these heritage assets thereby causing less than substantial harm. Furthermore, the development would tower above existing boundary treatments and would be seen as modern alien industrial dominant features from views from within the conservation area, failing to enhance and preserve the character and appearance of Great Barr Conservation Area, thereby causing less than substantial harm. The proposal is contrary to the National Planning Policy Framework, paragraphs 206 and 208, Saved UDP Policies GP2, ENV27, ENV30, ENV32, ENV38, Policy ENV2 of the BCCS, Policies EN5 and EN7 of the SAD, and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
9. The Noise Impact Assessment is inadequate for determining the suitability of the planning proposal and does not sufficiently evaluate the significance of likely impacts and does not support safeguarding of amenity for neighbouring noise sensitive development. The proposal would be contrary to saved UDP policies GP2 and ENV10

WARLEY ENERGY HUB

Land Adjacent to St Mary's Lane, Ockendon, Upminster, RM14 3PA

Planning Application Ref. P1498.24

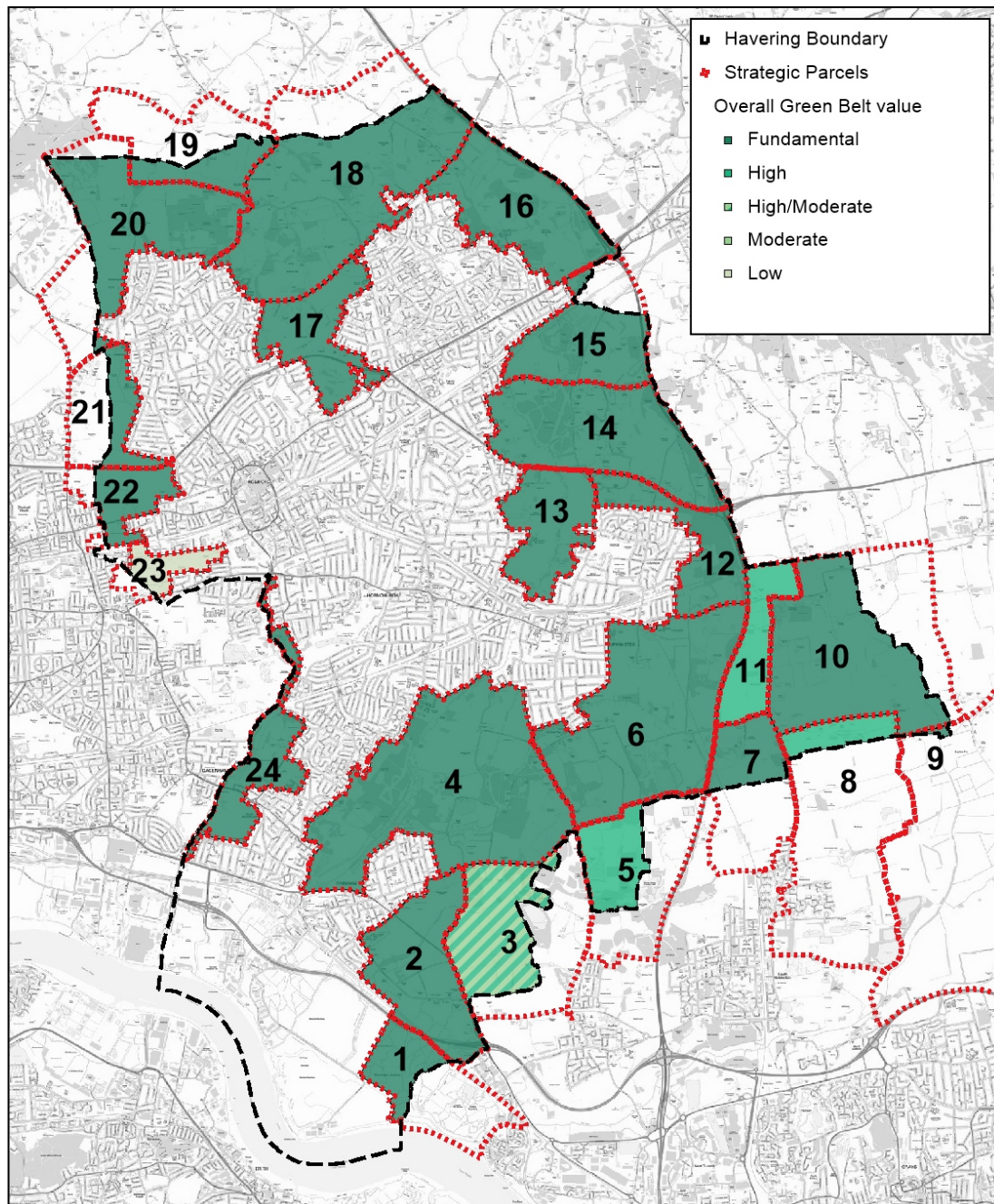
Appendix B – Havering Green Belt Study Extract

Table 3.1 Overview table parcel assessments Green Belt Study

Parcel number	Purpose 1: To check the unrestricted sprawl of large built-up areas	Purpose 2: To prevent neighbouring towns from merging into one another	Purpose 3: To assist in safeguarding the countryside from encroachment	Overall contribution to Green Belt
1	Major	Slight/Negligible	Paramount	Fundamental
2	Paramount	Major	Major	Fundamental
3	Slight/Negligible	None	Major/Moderate	High/moderate
4	Paramount	Slight/Negligible	Major	Fundamental
5	None	None	Major	High
6	Paramount	Slight/Negligible	Major	Fundamental
7	None	None	Paramount	Fundamental
8	None	None	Major	High
9	None	None	Paramount	Fundamental
10	None	None	Paramount	Fundamental
11	None	None	Major	High
12	Paramount	Slight/Negligible	Major	Fundamental
13	Paramount	Major	Major	Fundamental
14	Paramount	Slight/Negligible	Paramount	Fundamental
15	Paramount	Major	Major	Fundamental
16	Paramount	Major	Paramount	Fundamental
17	Paramount	Major	Moderate	Fundamental
18	Paramount	None	Paramount	Fundamental
19	Slight/Negligible	None	Paramount	Fundamental
20	Paramount	Major	Major	Fundamental
21	Major	Paramount	Moderate	Fundamental
22	Major/None	Paramount	Moderate	Fundamental
23	None	Slight/Negligible	Slight/Negligible	Low
24	Paramount	Major and Slight/Negligible	Major/Moderate	Fundamental

Note: Some parcels have a mixed performance on a purpose. The colouring of these parcels in the above table is therefore indicative, and tends to be based on the average or lower score in case of mixed performance.

Map 1 Overall contribution to Green Belt



Green Belt Study 2016	Overall Green Belt Value	N
  	Scale: 1:80000 Date: 07 November 2016	0 1000 2000 3000 metres
 Havering LONDON BOROUGH	London Borough of Havering Town Hall, Main Road Romford, RM1 3BD Tel: 01708 434343	© Crown copyright and database rights 2016 Ordnance Survey 100024327

WARLEY ENERGY HUB

Land Adjacent to St Mary's Lane, Ockendon, Upminster, RM14 3PA

Planning Application Ref. P1498.24

Appendix C – Additional Green Belt Appeal Decisions



Appeal Decision

Site visit made on 22 September 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/W1525/W/22/3306710

Land West of Battlesbridge, Rettendon, Wickford, Essex SS11 7RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Pelagic Energy against the decision of Chelmsford City Council.
 - The application Ref 22/00179/FUL, dated 21 January 2022, was refused by notice dated 30 May 2022.
 - The development proposed is the construction of a battery energy storage system and ancillary development.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of a battery energy storage system and ancillary development, at Land West of Battlesbridge, Rettendon, Wickford, Essex SS11 7RJ in accordance with the terms of the application, Ref 22/00179/FUL, dated 21 January 2022, subject to the conditions in the attached schedule.

Procedural Matters

2. For the banner heading and the grant of planning permission above, I have taken the site address from the appellant's appeal form as it more accurately describes the location of the appeal site, including by a postcode. This address is similar to that used by the Council in determining the planning application and I am satisfied that using it would not prejudice the interests of any party.
3. Accompanying the appeal is a revised drawing (number PPS-2784-OAP1), showing an alternative layout of the development, including an embankment with trees along the east and south boundaries. This drawing would constitute a fundamental change to the proposal that could unfairly prejudice the interests of third parties. Therefore, I have not taken it into account in determining this appeal.
4. Several documents not before the Council when it determined the planning application have been submitted with the appeal. These include appeal decisions, planning permissions granted and reports related to future energy scenarios. Furthermore, an Alternative Site Search report dated March 2023 accompanies the appellant's final comments. Whilst interested parties may not have seen this information, no alternative sites for the development were suggested by any party, and the information does not change the appeal proposal. The Council has had an opportunity to provide submissions on the appellant's final comments.
5. I have had regard to the nature of the objections to the appeal proposal, the information submitted by the appellant, and the principles established in caselaw. In so doing, I am satisfied that by taking account of this information

in determining this appeal, the interests of the parties would not be unfairly prejudiced.

6. The National Planning Policy Framework (the Framework) was revised in December 2023 and is a material consideration in planning decisions. All references to the Framework in this decision relates to the revised document. In having regard to the matters that are most relevant to this appeal, there are no material changes to the Framework of relevance to the substance of this appeal. Therefore, I am satisfied that no party to this appeal would be prejudiced by the changes to the national policy context.

Background and Main Issues

7. The main parties agree that the proposed development would represent inappropriate development in the Green Belt. Based on the evidence before me, I concur with that position. In that context the main issues are:
 - The effect of the proposed development on the openness and purposes of the Green Belt.
 - The effect of the proposed development on the character and appearance of the area.
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Openness and purposes of the Green Belt

8. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. One of the five purposes of the Green Belt, as set out in Paragraph 143.c) of the Framework, is to assist in safeguarding the countryside from encroachment.
9. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policies S11, DM6 and DM19 of the Chelmsford Local Plan, Adopted May 2020, (the CLP), are consistent with the Framework insofar as they seek to protect the openness and permanence of the Green Belt, and set out that inappropriate development will not be approved except in very special circumstances.
10. Openness can be considered as the absence of buildings and development, and is perceived spatially and visually. The appeal site is an open agricultural field devoid of any buildings or structures. The proposed development would consist of some 78 battery containers and transformers, including a switchgear building, substation compound, ancillary grid compliance structure, perimeter acoustic fencing, CCTV poles, hardstandings and access track. With the exception of the 132kv substation compound, the individual components of the proposal are not particularly tall and would be laid out with gaps between them. However, they would nonetheless cover most of the open undeveloped field, thus resulting in an inevitable reduction in the openness of the Green Belt

in spatial terms. Furthermore, the proposed development would represent an encroachment of built development into the countryside.

11. The appeal site is situated on relatively flat land to the north of the River Crouch. It is set at a lower level than the raised highway embankments which are substantially planted with trees and converge to the north. The openness of the site is mostly experienced by the drivers of vehicles in elevated views at relatively close distances from the nearby roads. Considerably longer distance views from a Public Right of Way are possible as recorded in the appellant's Landscape and Visual Impact Assessment (LVIA).
12. The LVIA states that the appeal site is some 7 metres below the maximum height of the highway embankments. The proposed buildings and structures would not be particularly tall especially when seen in the context of the raised highway embankments. The proposed 132kv substation compound would be the tallest element of the proposal, however the submitted drawings show that the upper parts of this would largely comprise of narrow profiled components with a good degree of visual permeability through them. The substation would also be set at the northern extent of the site and relatively close to the raised highway embankments of both the A130 and A1245, limiting its visual effects. As such, the proposed development would, in totality, be mostly seen by drivers looking downwards from the roads across the appeal site, and against the backdrop of the dense tree coverage and planting growing on the raised embankments.
13. The visibility of the development in the landscape would therefore be limited to views from the nearest roads and a few very distant viewpoints identified in the LVIA, due to the containment of the site between the road embankments and localised topography. Nonetheless, the cumulative volume of the individual components of the proposed development, along with their site coverage and the extent to which they would spread across the site, would cause a significant loss of visual openness of the Green Belt in those relatively localised views.
14. The harm caused by the appeal development to the Green Belt, would be reversible and intended to be so. The Planning Practice Guidance¹ (PPG) acknowledges that 'duration and remediability' are relevant considerations when assessing the impact of a proposal on openness. Nonetheless, the duration of the planning permission and the harm to the Green Belt would persist for a significant period of time.
15. In having regard to the Caselaw drawn to my attention by the appellant on the concept of openness, I find that the appeal proposal would significantly harm the openness of the Green Belt. It would also conflict with its purpose of assisting in safeguarding the countryside from encroachment by development. This harm would be in addition to that resulting from the proposed development's inappropriateness. As such, it would be contrary to CLP Policies S11, DM6 and DM19, insofar as they seek to protect the Green Belt from inappropriate development and protect its openness, permanence and purposes.

¹ Paragraph: 001 Reference ID: 64-001-20190722

Character and appearance

16. The countryside in the area of the appeal site is generally characterised by cultivated agricultural fields on either side of the course of the nearby river. These fields are set amongst a wider undulating landscape of fields marked by hedgerows and bisected by roads, including those on raised embankments.
17. Tall electricity pylons are highly visible in the landscape and roads extend across the fields on raised embankments, including the nearby A130 dual carriageway. However, the A130 and the vehicles travelling along it are relatively well screened by planting on the raised embankment. Therefore, despite these elements of infrastructure being visible, the area has a generally rural and pastoral agricultural character and appearance. The largely cultivated appearance of the appeal site contributes positively to this.
18. As an assemblage of elements with an industrial aesthetic spread across the appeal site, including shipping-type containers, transformers, substation, CCTV poles and boundary fencing, the proposed development would fundamentally change the character and appearance of the site within the wider landscape. However, the appeal site occupies something of a hollow in the ground due to the raised road embankments and there is relatively dense vegetation alongside the roads. As such, the site is relatively well contained between these embankments, which largely restricts its visibility to relatively close distance views from passing road users, particularly when the vegetation is in leaf.
19. Seen in those elevated views from the nearby roads and mostly against the backdrop of planting, the industrial appearance of the development would harm the character and appearance of the area, albeit to a relatively localised extent. The proposed planting would be capable of limiting views of the development, however it would take a number of years to establish. In longer distance views from the public right of way in viewpoints H, I and J in the appellant's LVIA, I observed that there would be limited visibility of the development.
20. For these reasons, the proposed development would cause a moderate degree of harm to the character and appearance of the area, contrary to CLP Policies S11 and DM19, which seek to ensure that development does not have an adverse impact on the different roles and character of the countryside.

Other considerations

21. The proposed battery energy storage system (BESS) would store renewable and non-renewable electricity supplied by the National Grid (the grid) and this would be fed back into the grid at times of high demand. The evidence states that due to fluctuations in the supply of renewable energy from wind and solar generators, there is an increased national need for energy storage facilities to secure reliable and constant energy supply.
22. The evidence before me includes reference to a series of reports and documents which identify the importance of energy storage to the overall energy strategy and how it will assist with the achievement of Net Zero.
23. The Climate Change Act 2008 set into legislation the UK's approach to tackling and responding to climate change, introducing a legally binding 2050 target to reduce greenhouse gas emissions by at least 80% relative to 1990 levels. The Net Zero Strategy: Build Back Greener HM Government 2021, sets out the need to take action to ensure that by 2035 all electricity is generated from low-

carbon sources. The British Energy Strategy 2022, outlines the Government's encouragement for all forms of energy flexibility with an emphasis on ensuring there is sufficient large-scale, long-duration electricity storage to balance the overall system.

24. National Grid's 'A Day in the Life 2035', identifies that energy storage, especially long-duration storage, will be critical to make best use of low-cost energy, and balance demand and supply. National Grid's Future Energy Scenarios report 2022 forecasts that electricity storage will need to increase significantly to support the decarbonisation of the system, with estimates of twelve fold and seven fold increases in capacity and volume being needed respectively from 2021 to 2050, as part of credible ways that the UK can achieve Net Zero by 2050.
25. The proposed BESS does not generate energy and is not associated with a particular renewable energy project. The evidence indicates that storage of electricity can take different forms and is not solely battery storage. Nonetheless, the evidence provided demonstrates a national need for this type of installation in terms of its contribution to achieving Net Zero through making best use of low-cost and renewable energy, and assisting in the reliable supply of energy.
26. The need for energy storage and its public benefits are not disputed between the main parties. The Council's position is, in effect, that the public benefits of the development are generic and would be the same anywhere in the country, thus falling short of the 'very special circumstances' in the context of national and local Green Belt protection policies.
27. The Council contends that the appellant has failed to demonstrate that the proximity of the appeal site to Rayleigh Substation (RS) is unique or very special, and why, given that it would be connected to a national grid, it could not be located within the same distance of a non-Green Belt substation. As such, the Council did not find the appellant's site search process to have been sufficiently robust. Furthermore, even if the Council had robust evidence of a lack of alternative sites outside the Green Belt for the appeal proposal, it considers that the harm would not be outweighed by the benefits.
28. The evidence indicates that the location of the proposed development has been derived following a site selection process based primarily on distance from the RS. This process took account of the significant expense and viability of installing a cable connection to the grid network, thus placing a viable 'limit' of approximately 3km or so between the proposal and RS. The appeal site, at some 3.8km from RS, is close to the viable limit.
29. RS is a 'hub' supplying the electricity distribution network covering a large area of South East England and East Anglia, and operated by UK Power Networks. The appellant's evidence indicates that it is locationally important due to its position on the boundary between two National Grid regions and in an area of the grid that receives a significant proportion of energy from solar and offshore wind generators, and I have no substantive basis to consider differently. The evidence suggests that the energy supply from these renewable generators fluctuates and requires 'balancing' by energy storage facilities. Furthermore, the distribution network in this location is heavily constrained for new connections in that the available capacity to accept new energy generators would, when including the appeal proposals, be either used up or close to being

used up by existing generating projects. As such, making additional capacity available in the network of RS would require costly upgrades reportedly taking many years to implement.

30. The evidence also suggests there is an urgent need for 'reactive power' across the south of England for essential 'balancing' services and that the appeal site is within a reactive power priority area². Without the balancing services provided by the appeal proposal, energy generating connections to the grid from renewables projects would be 'curtailed' (switched-off), in order to manage fluctuations in the flow of power and avoid overloading the network. Those projects that have secured grid connections are reportedly fundamental to achieving Net Zero targets given the increased requirement for storage capacity. Furthermore, the proposed BESS would be able to contribute to repowering the network (so called 'black start' capability), in the event of a power outage, which the evidence suggests has become more difficult due to the transition from traditional generators to renewable generation.
31. The appellant's final comments include evidence of the site search area, the site selection criteria and how it was applied to select the appeal site, and the reasons for discounting alternative options. This process involved an interrogation of the brownfield land register, detailed consideration of short-listed sites and their constraints, and direct contact with land agents to determine potential availability. The search has confirmed that there are no allocated industrial sites or brownfield sites outside or inside the Green Belt that would be sequentially preferable than the proposed appeal site. Furthermore, no areas of open countryside outside of the Green Belt were found to be available within the viable 4km study area.
32. Taking account of all the above, I am satisfied on the basis of the evidence before me, that the appellant has demonstrated a need for a development of this type within relatively close proximity to the RS. Furthermore, the appeal proposal would secure the last, or at least one of the last unconstrained connections into the area's network, which the evidence suggests can be delivered by 2025. This is important in this location as the network is constrained and without facilities such as the appeal proposal it would not be able accept additional connections from new generators until costly network upgrades are delivered.
33. Given that existing generating projects, together with the appeal proposal, would take up the available grid capacity at RS, the deliverability of the appeal proposal weighs considerably in its favour. Moreover, the robust site search assessment demonstrates that there are no suitable sites outside of the Green Belt, nor sequentially preferable sites within it, to deliver the proposal's technical and environmental benefits.
34. The environmental benefits of the development would not be confined to the locality of the appeal site. However, this would not diminish the overall weight to be attributed to the benefits of the proposal, particularly given the demonstrable need for battery storage in relatively close proximity to the RS, so as to deliver the technical 'balancing' and 'reactive power' capabilities. Taking account of the relative absence of other suitable sites to achieve these benefits, I give the benefits of the proposal very substantial weight.

² Figure 3 of the appellant's statement.

Other matters

35. Based on the evidence before me there would not be any visibility of the development from the Battlesbridge Conservation Area (CA) or the listed building within it. These heritage assets would be separated from the appeal proposal by relatively long distances. There would be very limited intervisibility between the listed Church of All Saints, which occupies a prominent elevated position and the proposed development, which is mostly a low-rise development that would be relatively well contained within the wider landscape. Although some nearby second world war pillboxes are considered non-designated heritage assets, these are situated on the opposite side of the raised road embankment to the appeal site. As such, the appeal proposal would not cause any harm to the significance of the CA, and it would preserve the settings of the listed buildings. The significance of the non-designated heritage assets would not be harmed.
36. The main source of noise at the appeal site would be the continual operation of cooling condensers and transformers. I observed on my site visit that road noise was constantly audible and that the closest dwellings to the appeal site were located on the opposite side of the raised A1245 road embankment. The homes to the south are located at greater distances from the appeal site. Although my experiences of the site and its surroundings were a snapshot in time, I am satisfied on the basis of the appellant's Noise Impact Assessment, and in the absence of any substantive evidence to the contrary, that the appeal proposal would not result in noise effects that would harm the living conditions of nearby residential occupiers. I have no substantive evidence to support the contention that the appeal proposal would pose an unacceptable risk of contamination or pollution to the environment, including to the nearby river.

Conditions

37. The Council has suggested a number of planning conditions in the event of the appeal being allowed. I have considered them in accordance with the tests for imposing conditions set out in the Framework and the PPG. Where necessary I have amended the wording of the suggested conditions to ensure compliance with the tests. In the interests of certainty of the planning permission granted, conditions are imposed to necessarily indicate the time limit for implementation and specify the approved plans.
38. Conditions are necessary to ensure that the planning permission is temporary, and to ensure that the development is removed from the land at the end of its operational period, thus restoring the openness of the Green Belt, and in the interests of the character and appearance of the area. A detailed scheme for this, including a timetable for its completion, is necessary for certainty.
39. Landscaping details, including boundary treatments and finished ground levels, along with details of the colour finishes of the equipment and an outdoor lighting scheme, are necessary with regard to the appearance of the development. I have simplified the lists of requirements in the recommended conditions to give the parties flexibility over what needs to be addressed.
40. A construction management plan is necessary in the interests of highway safety, along with measures to prevent pollution of the nearby watercourse.

41. Details of the works to the on-site access road are necessary in the interests of highway safety to ensure satisfactory access arrangements are in place. For the same reason it is necessary to ensure that on-site parking provision is in place for the duration of the development and any entrance gates do not force vehicles to wait in the carriageway.
42. Details of a drainage strategy are necessary before development commences. This is to ensure the site is suitably drained from the outset and flood risk to surrounding areas is not increased and that surface water is not discharged onto the highway where it could pose a safety risk.
43. In the interests of avoiding harm to biodiversity and achieving an enhancement to biodiversity it is necessary to control outdoor lighting and ensure development is carried out in accordance with the submitted Ecology Report.

Green Belt Balance and Conclusion

44. Paragraphs 152 and 153 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt. The proposal would be inappropriate development in the Green Belt. It would cause significant harm to the openness of the Green Belt and conflict with the purpose of the Green Belt in safeguarding the countryside from encroachment. Together, I must give substantial weight to the totality of the proposal's harm to the Green Belt, added to which is the relatively localised harm to the character and appearance of the area, which weighs moderately against the development.
45. The other matters raised above do not result in harm or cause effects that cannot be made acceptable and mitigated through planning conditions. They are matters of neutral weight in the balance.
46. The other considerations attract very substantial weight in favour of the appeal proposal. Although they might arise elsewhere and are not wholly unique, I have not seen or read anything in the evidence that limits very special circumstances in this instance to those that are wholly unique. Taken together, they clearly outweigh the totality of harm to the Green Belt and the harm to the character and appearance of the area. Consequently, the very special circumstances necessary to justify the development do exist, and the appeal proposal would comply with CLP Policies S11, DM6 and DM19 insofar as they set out that inappropriate development will not be approved except in very special circumstances.
47. For the reasons given above and having regard to all matters raised, I conclude that the appeal proposal is consistent with the development plan when read as a whole. The appeal should be allowed.

G Sylvester

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DWG003; HE-01-15-DWG001 Revision B4; HE-01-15-DWG004 Revision B4; PLG001 Revision A1; PLG004 Revision A1; PLG005 Revision A1; PLG006 Revision A1; PLG008 Revision A1; PLG009 Revision A1; PLG0012 Revision A1, and PLG0013 Revision A1.
- 3) The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity is first stored or distributed to the National Grid. The local planning authority shall be notified in writing of the date of first electricity storage by or distribution from the development within 10 working days of the event date. At the end of this 40-year period, or in the event the battery energy storage system and ancillary development is no longer required for power storage and distribution in connection with Rayleigh substation or becomes redundant, whichever occurs first, the development shall be permanently removed from the site and the land restored to its previous agricultural use in accordance with a scheme of works containing the details set out in Condition 4, that shall have previously been submitted to and approved in writing by the local planning authority under the terms also set out in Condition 4.
- 4) No later than 6 months prior to the expiry of the planning permission, or within 6 months of the cessation of electricity storage and distribution by this facility, whichever is the sooner, a detailed scheme of works for the removal of the development (excluding the approved landscaping and biodiversity works) shall be submitted to and approved in writing by the local planning authority. The scheme of works shall include the following details:
 - i) a programme of works;
 - ii) a method statement for the decommissioning and dismantling of all equipment and surfacing on site;
 - iii) details of any items to be retained on site;
 - iv) a method statement for restoring the land to agriculture;
 - v) timescale for the decommissioning, removal and reinstatement of the land;
 - vi) a method statement for the disposal/recycling of redundant equipment/structures.

The scheme of works shall be undertaken in accordance with the approved details and timescales. The local planning authority shall be notified in writing of the date of the cessation of electricity storage by or distribution from the development within 10 working days of the event date.
- 5) No development shall commence until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping details shall include:
 - i) hard surfacing materials;

- ii) boundary treatments, including details of measures to allow the ingress and egress of small mammals;
- iii) soft landscape details;
- iv) species type, size and planting density;
- v) finished ground levels;
- vi) implementation programme;
- vii) maintenance and management details.

The hard and soft landscape works shall be carried out, and thereafter maintained and managed in accordance with the approved details.

- 6) No development shall commence until a Construction Management Plan (CMP), to include the following details, has been submitted to and approved in writing by the local planning authority.
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in construction of the development;
 - iv) wheel washing facilities;
 - v) measures to prevent pollution of nearby watercourses;

The approved CMP shall be adhered to throughout the construction period of the development.

- 7) No development shall commence until a scheme for access to the site from the A1245, including a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include provision of a metalled haul/access road from the A1245, including a hard-bound material for at least the first 6m from the back edge of the highway carriageway. The development shall be carried out in accordance with the approved scheme and thereafter retained for the duration of the development.
- 8) No development shall commence until a surface water drainage scheme, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that there is no discharge of surface water from the development onto the Highway and it shall be implemented in accordance with the approved details and timetable, and thereafter retained for the duration of the development.
- 9) The substation, substation building, switchgear housing, battery storage units, grid compliant equipment, CCTV poles, and battery transformers shall not be installed until details of the colour finishes of their external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained in the approved colour finishes.

- 10) The vehicle parking spaces and turning areas shall be provided in accordance with the approved drawings before first use of the development and thereafter kept available for those purposes.
- 11) Any entrance gates erected shall be hung to open inwards and away from the highway, and shall be set back a minimum distance of 6m metres from the carriageway edge and thereafter maintained in that condition.
- 12) The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures contained in the Ecology Report dated October 2021 by Wild Frontier Ecology Ltd.
- 13) Outdoor lighting shall not be installed at the site except in accordance with a detailed lighting scheme, that shall first have been submitted to and approved in writing by the local planning authority. The detailed lighting scheme shall be maintained thereafter in accordance with the approved details.

End of schedule



Appeal Decision

Inquiry held on 9-11 January 2024

Site visit made on 12 January 2024

by J Woolcock BNatRes MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2024

Appeal Ref: APP/M1595/W/23/3328712

Land to South of Marsh Farm, Fobbing, SS17 9JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Rayleigh Green Limited against the decision of Thurrock Borough Council (TBC).
- The application Ref: 21/01635/FUL, dated 23 September 2021, was refused by notice dated 12 June 2023.
- The development proposed is the installation of a renewable led energy generation station, comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformers stations, site access, internal access tracks, security measures, access gates, other ancillary infrastructure, grid connection cable, landscaping and biodiversity enhancements.

Decision

1. The appeal is allowed and planning permission is granted for the installation of a renewable led energy generation station, comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformers stations, site access, internal access tracks, security measures, access gates, other ancillary infrastructure, grid connection cable, landscaping and biodiversity enhancements at Land to South of Marsh Farm, Fobbing, SS17 9JW, in accordance with the terms of the application, Ref: 21/01635/FUL, dated 23 September 2021, and the plans submitted with it, as amended, subject to the conditions set out in the Schedule of Conditions attached to this decision.

Preliminary matters

2. The Inquiry sat for three days and there was an accompanied site visit on the fourth day. With the agreement of the parties, I also visited off-site locations unaccompanied. Closing submissions were in writing and the Inquiry was closed in writing on 11 March 2024.¹ TBC and the appellant agreed a Statement of Common Ground (SoCG) and an addendum was submitted regarding the updated version of the National Planning Policy Framework (NPPF) published on 19 December 2023.²
3. In refusing the application against officer recommendation for approval, TBC considered a revised scheme from that originally submitted with the application. The revised scheme reduced the size of the area for solar panels, along with minor amendments to the proposed planting. It is the scheme (shown on Drawing Nos. FO2.0 Rev 19 site plan and 7428_100 Rev E

¹ ID12 and ID13.

² CD C10 and CD C19.

Landscape Ecology Enhancement Plan) that I have used in my consideration of the appeal. Drawing No. 7428_100 Rev E depicts new ponds, an orchard, off-site hedge and diverse planting, along with natural areas, all outside the appeal site edged red.³ These are part of wider estate biodiversity enhancements. This off-site landscaping is not the subject of any planning obligation or suggested planning condition that relates to the appeal scheme. In determining this appeal, I have given no weight to these off-site works.

4. The application was accompanied by an Environmental Statement (ES). I am satisfied that the ES reasonably complies with Schedule 4 of the EIA Regulations. In deciding the appeal, I have had regard to the Environmental Information.⁴
5. Part of the appeal scheme, comprising a section of the cable route corridor connecting to the National Grid substation at Rayleigh, falls within Basildon District. Planning permission for this development was granted by Basildon Council on 8 September 2023.⁵
6. The development plan for the locality includes the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) adopted in 2015.⁶ The appeal site is within the Green Belt as designated in the development plan. The parties are agreed that the proposed development would be inappropriate development in the Green Belt. I concur with that position.
7. Policy PMD6 accords with Green Belt policy in the NPPF. However, Policy CSSP4 refers to PPG2 and does not incorporate current provisions in the NPPF regarding very special circumstances.⁷ I have, therefore, given more weight to the NPPF in applying Green Belt policy.
8. The National Planning Practice Guidance (NPPG) includes guidance about renewable and low carbon energy.⁸ Factors to consider include encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value.
9. On 22 November 2023 Overarching National Policy Statement for Energy (EN-1) and National Policy Statement for Renewable Energy Infrastructure (EN-3) were published and laid before Parliament for approval. The Secretary of State for Energy Security and Net Zero announced in a written ministerial statement on 17 January 2024 that these had been approved and designated under the provisions of the Planning Act 2008. Given that the capacity of the proposed generation station in this appeal would be so close to the 50 megawatt (MW) threshold for a nationally significant infrastructure project (NSIP), I consider that EN-1 and EN-3 are material considerations in

³ ID9.

⁴ The Environmental Information means the environmental statement, including any representations made by any body required by the Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development.

⁵ Basildon Council Ref:21/01452/FULL.

⁶ All references in this decision to 'Policy' and 'Policies' are to policies of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) adopted in 2015.

⁷ PPG2 is a former Green Belt policy.

⁸ The NPPG includes reference to a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013 and written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015.

determining this appeal.⁹ EN-1 and EN-3 were raised at the Inquiry and were the subject of submissions by the parties.

10. The appeal site is located to the east of Fobbing and wholly within the London Area Green Belt. The village of Fobbing lies to the east of the town of Corringham. The Church of St Michael in Fobbing is a grade I listed building. I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building. The historic core of Fobbing is a designated Conservation Area. Footpath 14 traverses the appeal site in a north/south direction and Footpath 199 crosses the site east/west. Both footpaths are Public Rights of Way (PROW). The England Coast Path lies further to the east and south of the site.

Proposed development

11. Rayleigh Green Limited has entered into a Bilateral Connection Agreement with National Grid Electricity System Operator, with a connection date of 31 October 2025, at the Rayleigh National Grid 400/33 kV Substation.¹⁰ Solar panels generate electricity in direct current (DC), which is converted by inverters to alternating current (AC) for export to the grid. Capacity can be measured in different ways, including in terms of combined capacity of installed solar panels (in DC), or in terms of combined capacity of installed inverters (in AC). The Technical Note I requested for the Inquiry states: ¹¹

"2.3 The connection allows for 57MW import and 57MW export of electricity.

2.4 Although the total export capacity is 57MW, as this is the capacity of the tertiary connection secured, the 57MW export capacity is split into two stages 49.9MW and 7.1MW. This is restricted via a contractual arrangement with National Grid.

2.5 Through splitting the connection it is designed to keep the actual built capacity of the solar farm to 49.9MW to ensure that the maximum export capacity of the project remains below the threshold for a generating station to be considered a Nationally Significant Infrastructure Project. The AC output will in practice be restricted to 49.9MW through the installed combined inverter/transformer units.

2.6 The import and export capacity of the battery energy storage system will utilise the 49.9MW and also the remaining 7.1MW of the connection."

The Planning Act 2008 specifies that if a generating station is (when constructed) expected to be a generating station whose capacity is more than 50 MW then it is defined as an NSIP.¹²

12. The design for the appeal scheme includes 99,120 panels, equating to a generating capacity of 49.5 MW, based on a panel specification of 500 Watts. The appeal scheme does not specify the capacity of the proposed inverters. With an 11.2% load factor derived from DUKES, a 49.9 MW scheme would generate 48.99 million kWh per year.¹³ The proposed generation station would

⁹ EN-1 paragraphs 1.2.1 and 1.2.2.

¹⁰ ID10.

¹¹ CD C17.

¹² Sections 14(1)(a) and 15(2)(c) of the Planning Act 2008.

¹³ ID5. DUKES is an abbreviation for the Digest of UK Energy Statistics.

operate for 40 years from the date of the first exportation of electricity from the appeal site.¹⁴

13. The solar panels would be up to 3m high, ground mounted on tracking frames with bifacial panels and a tracking system to follow the path of the sun. This means that their height would vary throughout the day. The arrays, apart from those in an area of archaeological interest, would be installed on posts driven into the ground. The scheme includes sixteen inverter/transformer stations housed in metal containers approximately 12m long x 2.4m wide x 2.9m high. The scheme includes a Battery Energy Storage System (BESS). Twenty-four battery storage units would be housed in metal containers of the same dimensions as the containers for the inverters/transformers. A generating substation and auxiliary switchgear area on the site, approximately 12m long x 4m wide x 4m high, would combine electricity from the transformers and batteries before transferring it to the Rayleigh Substation, which is located 7.6 km to the north-east of the proposed generation station. The electricity would enter the national grid for national use.
14. Deer fencing 2.1m high would be installed around the perimeter of the site. A higher specification of security fencing (2.4m high) is proposed around the battery storage area, along with a system of CCTV cameras. The appeal site is proposed to be accessed via an existing gated farm access from High Road, which links Fobbing with the A13 to the north.

Main issues

15. The main issues in this appeal are:

- (1) The effects of the proposed development on the character and appearance of the area.
- (2) The effects of the proposed development on heritage assets.
- (3) Whether the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt

16. Paragraph 156 of the NPPF provides that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development, where developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
17. The Government attaches great importance to Green Belts and the fundamental aim of policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In considering applications substantial weight should be given

¹⁴ CD C17.

to any harm to the Green Belt. The NPPF adds that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

18. The appeal scheme would be inappropriate development, which is by definition harmful to the Green Belt. The proposed panels and associated infrastructure would occupy an area that is currently open fields. The installation of 99,120 solar PV panels, sixteen inverter/transformer stations and twenty-four battery storage units, all housed in metal containers, along with a substation and auxiliary switchgear area, would result in a substantial built form that would have a significant adverse effect on the openness of this part of the Green Belt, in both spatial and visual terms. This harm would persist for the 40-year life of the proposed generation station.
19. The parties acknowledge that the proposal would result in some harm to Green Belt purpose c). I concur because the solar arrays and associated infrastructure in this context would appear as utilitarian structures that would not assist in safeguarding the countryside from encroachment. There is also agreement that the appeal scheme would not undermine Green Belt purpose a) concerning unrestricted sprawl of large built-up areas. I have no reason to find otherwise. However, there is a dispute about whether the proposed development would harm Green Belt purposes b), d) and e).
20. The solar panels and associated infrastructure would be set back some distance from the Vange suburb of Basildon, and beyond large fields to the east of Fobbing.¹⁵ Taking into account the evidence adduced at the Inquiry and what I saw at my site visit, I am satisfied that the appeal scheme would not be perceived as development that merged Basildon with Corringham. I find no conflict with purpose b) to prevent neighbouring towns merging into one another.
21. The fact that Fobbing has a designated Conservation Area is not sufficient by itself to elevate its status as a village to a historic town. There is no conflict with Green Belt purpose d) to preserve the setting and special character of historic towns. Nor would the proposal be at odds with Green Belt purpose e) to assist in urban regeneration because of the unlikely availability of derelict or other urban land to accommodate a solar generation station of sufficient scale to utilise the available grid connection.
22. Harm to the Green Belt arises from inappropriate development, impairment of openness, and conflict with Green Belt purpose c). The following sections of this decision consider whether the appeal scheme would result in any other harm, and then has regard to other considerations, so that a balancing exercise can be undertaken to determine whether very special circumstances exist.

¹⁵ Fobbing High Road is about 600 m from the nearest part of the appeal site that would contain solar panels and containers. The southern part of Vange is about 650 m from the appeal site.

Character and appearance

23. TBC refused the application on Green Belt grounds, but argued at the Inquiry that the appeal site is a valued landscape. NPPF paragraph 180 provides that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, a) protecting and enhancing valued landscapes, and b) recognising the intrinsic character and beauty of the countryside. The NPPF does not define valued landscapes and I was referred to the Landscape Institute's Technical Guidance Note (TGN) 02/21 *Assessing landscape value outside national designations*.¹⁶ In applying the factors in TGN 02/21 Table 1, I have considered not only the site itself and its features, elements, characteristics and qualities, but also their relationship with, and the role they play within, the site's context.¹⁷
24. This landscape has some natural heritage interest by reason of the local topography, reedbeds and hedgerows, but the majority of the appeal site is arable farmland. As indicated in the next section of this decision the appeal site makes some contribution to the setting of heritage assets in the wider landscape. But cultural heritage in the locality here does not add significantly to its landscape value. In terms of landscape condition, the area's overall good condition is adversely affected to some degree by the proximity of large-scale industrial infrastructure. There is some association of the area with the Peasants' Revolt because one of the leaders, Thomas Baker, was born in Fobbing.
25. This fringe landscape between marshland along the River Thames and the higher settled or wooded ridges has a particular identity, but it lacks rare or unusual features that would confer a strong sense of place or identity.¹⁸ This is not a particularly distinctive landscape. The two PRoW across the site provide recreational opportunities to experience this landscape, which results in some community value. The area offers expansive views over the landscape, especially from higher vantage points. However, this high scenic quality is diminished to some extent by the industrial development in the wider area. The influence of the overhead power lines, transport and industrial infrastructure also detracts from appreciating the tranquillity and wildness of the wider marshland landscape. The marshes provide flood storage with some reedbeds. The area also has some landscape value as an undeveloped space between Corringham, Basildon and South Benfleet/Canvey Island.
26. Taking into account all the factors in TGN 02/21, the evidence before the Inquiry and what I experienced on site, I consider that the landscape qualities of the area do not elevate it above other more everyday landscapes. My overall judgement is that the appeal site is not part of a valued landscape for the purposes of applying NPPF paragraph 180. I turn next to the effect of the proposal on landscape character.

¹⁶ CD C12B.

¹⁷ The factors cited are Natural heritage, Cultural heritage, Landscape condition, Associations, Distinctiveness, Recreational, Perceptual (Scenic), Perceptual (Wildness and tranquillity) and Functional. TGN 02/21 also states that value is best appreciated at the scale at which a landscape is perceived – rarely is this on a field-by-field basis.

¹⁸ CD C11B Appendix 6 compares the proposed development with marshland in Thurrock.

27. The area is located within NCA 81 Greater Thames Estuary.¹⁹ In local character assessments the majority of the appeal site lies within Landscape Character Area C1. Fobbing Marshes, with part of the proposed access road within LCA B3. Fobbing Ridge Rolling Farmland / Wooded Ridge. LCA 1. Bowers and Vange Estuary Marshlands is located to the north and north-east of the appeal site.²⁰ A Landscape Character Assessment was undertaken in 2018, in which the Landscape Character Profiles for LCA F4 Fobbing Marshes & Haven Creek and LCA H3 Fobbing Ridge Open Undulating Farmland are generally consistent with the original Landscape Character Assessment.²¹ The appeal site and surrounds is identified within the Essex Historic Landscape Character Assessment as comprising "20th century agriculture (drained reclamation C19th-20th)" and "coastal drained enclosure (Post-1950 Boundary Loss)".²² However, these characterisations are largely reflected through the alignment of boundaries, that would not be harmed by the proposed development.
28. Key characteristics of the Fobbing Marshes LCAs include a low-lying flat and exposed landscape with a network of winding ditches, with extensive areas of grazing marsh. The absence of settlements and roads create a sense of wildness and remoteness in a large-scale landscape. Sweeping views are dominated by sky, but with a confusion of vertical structures to the south that includes London Gateway.
29. The proposed solar panels, substation, BESS and access would occupy 65.44 ha, rendering the appeal scheme a large-scale development that would, in terms of overall scale, be reasonably commensurate with the large-scale landscape in which it would be sited.²³ However, the proposed development would have a strong horizontal emphasis that would contrast with the vertical elements in the landscape, such as the pylons and industrial structures to the south of the site. The metal and glass panels, along with their regular arrangement in long rows, would be out of keeping with the character of the area. The colour and texture of the panels would not be typical of its agricultural and marshland context, and so the proposed development would introduce a discordant element into the local landscape. Mitigation planting would not have much impact on this harm to the landscape character of the area. I find that the proposal would have an adverse effect on the Fobbing Marshes LCAs of moderate significance up to 500 m from the appeal site (excluding the access), with this adverse impact reducing beyond this distance.
30. Given the proximity and characteristics of LCA 1. Bowers and Vange Estuary Marshlands, I consider that the appeal scheme would also have an adverse effect on this character area of moderate significance. LCA B3. Fobbing Ridge Rolling Farmland/Wooded Ridge and LCA H3 Fobbing Ridge Open Undulating Farmland have a lower sensitivity and with a reduced magnitude of effect the appeal scheme would, overall, have an adverse impact of minimal significance. However, some land towards the eastern boundary of these LCAs would fall within 500 m of the appeal site where the adverse landscape effect would be of moderate significance.

¹⁹ CD F2.

²⁰ Thurrock Landscape Capacity Study 2005 at CD F5 and Landscape Character Assessment of Basildon 2014.

²¹ CD F7.

²² CD F10, 11 and 12.

²³ The total area of the appeal site is about 134 ha, but the layout (not accounting for undeveloped spacing between rows of panels) would occupy 65.44 ha. CD C11B Table 2.

31. Turning to visual effects, the NPPG advises that 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. The mostly flat landscape here provides considerable scope to screen and soften the visual impact of the proposed development.²⁴
32. The proposed solar panels would be installed in Fields 1-7, 9 and 10, separated by drainage ditches and PRoW, where space would be provided for new hedgerows and landscaping.²⁵ These fields extend some 2.2 km north/south and up to about 1 km east/west. This elongated form of development, combined with the local topography, would make it unlikely that the whole of the appeal scheme could be seen from any single vantage point. Visual receptors would see some unscreened parts of the scheme, in combination or succession, and those moving through this landscape would experience some sequential cumulative visual effects. The appearance of the panels would also change throughout the day as they tracked the path of the sun. The proposed inverter/transformer and battery containers would have an industrial appearance and the panels would appear as utilitarian structures in this agricultural/marshland setting.
33. Visual receptors within and near to the appeal site would experience a large scale of effect that would result in an adverse visual impact of major/moderate significance.²⁶ It would be difficult to screen out all views of the proposed development from higher vantage points, such as Fobbing High Road.²⁷ However, because of the local topography only a small section of the solar panels would be visible from the grounds of the Church of St Michael. The highest part of the appeal site that would contain solar panels is within Field 1, located to the east of Whitehall Farm. The proposed 15 m wide new structure planting hedgerow along the western boundary of Field 1 would, in time, effectively screen views from the west, but not from lower vantage points to the north and east.²⁸
34. It was apparent from my site visit that in views from elevated vantage points in Langdon Hills, Basildon Golf Club and Vange, the appeal scheme would be seen in the distance as part of a wide panoramic view that included the marshland, fringe development and large-scale industrial development.²⁹ Given the separation distance and the extent that the proposed development would contribute to the overall panorama, I consider that the appeal scheme would have a negligible visual impact in these views.
35. The flat topography would permit much of the proposed development to be effectively screened over time with new hedgerow planting and by allowing existing hedges to grow up.³⁰ However, the effect of this would be to screen out many of the long-distance views over the expansive agricultural and marshland landscape that are currently a significant feature of this area.³¹ This

²⁴ The Zone of Visual Influence at Figure 6 CD C11B, includes Fobbing High Road, parts of Vange, and PRoW to the east and south of the appeal site, including those near to Wat Tyler Country Park.

²⁵ Field 8 would be managed for screening purposes (to adjacent PRoW) and biodiversity habitat for farmland birds.

²⁶ CD C11B VP01, VP02 and additional VP A.

²⁷ CD C11B VP06 and VP07. CD C11D Photos 1, 2, 4 and 5.

²⁸ CD C11B VP03 and VP09. CD C11D Photos 6, 7 and 8.

²⁹ CD C11B VP8 and VP10. CD C11D.

³⁰ The site is generally flat between 1.75 m AOD and 2.25 m AOD with the land rising in Field 1 to about 17.5 m AOD.

³¹ CD C11B VP04. CD C11D Photo 3.

planting would create a more enclosed landscape, in which PRoW would be largely contained within green corridors, albeit some of which would be wide.³² Given the local context, I disagree with the appellant's assessment about the effect of mitigation planting on the visual amenity of the area, and find that the proposal would have an adverse visual impact of major/moderate significance during the lifetime of the proposed development.³³

36. This level of harm would not be permanent, but 40 years far exceeds what is regarded as long term.³⁴ Overall, I find that the proposal would have an adverse effect on the landscape resource of moderate significance and that it would have an adverse visual impact of major/moderate significance. This harm to the character and appearance of the area weighs against the proposal in the planning balance.
37. Policy CSTP23 states that TBC will protect, manage and enhance the character of Thurrock to ensure improved quality and strengthened sense of place. Part I of the policy identifies key areas where character is a key issue, which include rural landscapes and Green Belt. No evidence was adduced at the Inquiry to identify significant features for the purposes of applying part II of the policy requiring retention and enhancement of such features, or to specify any local views that contribute to a distinctive sense of place that would invoke part III of the policy. Nevertheless, the likely harm to landscape character I have identified brings the proposal into some conflict with Policy CSTP23.
38. Policy PMD2 concerning design and layout requires mitigation of negative impacts. It also sets out criteria that all development proposals must satisfy. These include that development must contribute positively to the character of the area in which it is proposed, and to surrounding areas that may be affected by it. Mitigation here has its usual meaning to moderate and make less severe adverse effects. I am satisfied that the proposal would moderate its adverse landscape and visual impact, but for the reasons set out above it would not contribute positively to the character of the area and its surrounds.
39. However, for NSIPs EN-1 notes that virtually all nationally significant energy infrastructure projects will have adverse effects on the landscape, and that all energy infrastructure is likely to have visual effects for many receptors.³⁵ Given that the capacity of the appeal scheme falls just below the NSIP threshold, I believe that EN-1 is a material consideration, and that its underlying aims for energy development should be given more weight in this case than any conflict with Policies CSTP23 and PMD2.

Heritage assets

40. The Church of St Michael and Fobbing Conservation Area are designated heritage assets and great weight should be given to their conservation.³⁶ The church lies about 680 m to the west of the appeal site on a prominent site overlooking the Thames Marshes. It was evident at my site visit that the local topography would largely limit views of the proposed development from the Churchyard to solar panels within part of Field 7. However, the church tower is

³² Drawing No. 7428_100 revE Landscape Ecology Enhancement Plan states that the PRoW corridor to the east of Field 10 would be a minimum 55 m wide, and depicts the corridor between Fields 1 and 10 even wider.

³³ CD A19.

³⁴ GLVIA paragraph 5.51 at CD F1 refers to long term as ten to twenty-five years.

³⁵ EN-1 paragraphs 5.10.5 and 5.10.13.

³⁶ NPPF paragraph 205.

a visible skyline feature in the wider landscape and from many parts of the appeal site. The church tower is likely to have been used historically for navigation within the marshes. It now marks the location of the settlement on the higher ground. In this regard the setting of the church contributes to its heritage significance. The proposed development and screen planting would obscure some views towards the church tower, but given its elevation above the low level of the appeal site it would often be seen over the top of the solar panels, especially from vantage points in the east. Nevertheless, the appeal scheme would introduce modern infrastructure that would detract from what remains of the historic marshland setting of the church. I consider that this would result in less than substantial harm to the significance, through its setting, of the grade I listed building, but towards the lower end of the spectrum of less than substantial harm.

41. The Church of St Michael lies within Fobbing Conservation Area and similar considerations apply for the setting of the conservation area to that of the church. There are views out of the conservation area towards the appeal site from Fobbing High Road and part of the Recreation Ground, which lie on a ridge.³⁷ In addition, the conservation area includes a lower area that was a wharf giving direct access to the River Thames before the creek was dammed in 1953. The setting of the conservation area contributes to its significance in that the former creek has historic illustrative value pertaining to the siting of the settlement at this end of the ridge. The historic marshland has been altered by improved drainage and removal of creeks, but the proposed development would result in a more intrusive change to the area, that would adversely affect views to and from the conservation area and so would, to some extent, harm its setting. This would result in less than substantial harm to the significance of a designated heritage asset, but towards the lower end of the scale.
42. I have given considerable importance and weight to the harm to the significance of the grade I listed building. In the NPPF paragraph 208 balancing exercise, I consider that the less than substantial harm I have identified to the significance of the designated heritage assets here is outweighed by the public benefits that would be attributable to the renewable energy generated by the proposal. Further details about these benefits are set out later in this decision.
43. Two areas of 'redhill' salt working and two areas of anti-aircraft features remain on the appeal site. Other non-designated heritage assets here are Marsh Lane and Vange and Fobbing marshes pasture grazing areas.
44. The redhills are formed by reddish deposits from distinctive pottery types and burnt materials used in salt production in the later prehistoric, Romano-British or possibly medieval times. Their significance derives primarily from the archaeological interest of the remains. The topography indicates that salt production was undertaken at these sites, which are on higher ground adjacent to the marshes. The local topography contributes to the setting of these assets, but the remains are not now legible in the landscape, which has been drained. No panels are proposed in one redhill area, and the appeal scheme proposes the use of no-dig ballast foundations in the other. Nevertheless, minor harm would result to the significance of these assets due to the

³⁷ CD H6.

obstruction of views that assist in the legibility of the area as former marshland.

45. The anti-glider/aircraft features are slot trenches on the flat marshlands that have now been filled in. There is no evidence before the Inquiry to indicate that any physical remains of these trenches survive on the site. If there are such remains, then the proposed development would not have much of an impact on the assets or their setting because of the changes that have already taken place to the former marshland landscape. Any harm would be of negligible significance.
46. Marsh Lane is a medieval trackway extending down the slope from Fobbing High Road towards the appeal site. The farm it once led to has now been demolished. Its heritage value now largely lies in the indication it provides of an historic route from Fobbing into the wider marshes characterised by curvilinear boundaries and ditches. The appeal scheme would, to some extent, reduce the legibility of this wider setting to the trackway. But this would be a minor impact to a non-designated asset of minimal heritage value.
47. Vange and Fobbing Marshes is an area of former marshland that has experienced various degrees of reclamation and improved management over time, but its irregular enclosures and curvilinear boundaries are indicators of its marshland origin. Solar panels on a part of this area would make it more difficult to appreciate the significance of these sinuous boundaries and this would result in a minor level of harm.
48. Given the scale of the harm I have identified and the significance of the non-designated heritage assets in this case, it is my balanced judgement that any harm to these assets from the proposed development would not weigh much against the proposal.³⁸
49. The harm I have identified would occur for the lifetime of the proposed development. Taking all these considerations into account, I consider that the appeal scheme would result in minor harm to heritage assets. I find no conflict with Policies CSTP24 and PMD4, because they provide for the appropriate protection and enhancement of heritage assets in accordance with their significance and following the approach set out in the NPPF.

Other matters

50. With the exception of a part of its north-western corner the appeal site lies within Flood Zone 3a, with a high probability of flooding. However, this area will benefit from tidal flood defences for the lifetime of the proposed development.³⁹ As set out in Annex 3 of the NPPF the proposed generation station is 'essential infrastructure'. The Sequential and Exception Tests apply.⁴⁰ The NPPG adds that in Flood Zone 3a essential infrastructure should be designed and constructed to remain operational and safe in times of flood.
51. I asked at the Inquiry why one of the exclusionary criteria applied in the Sequential Test was a minimum site requirement of 120 ha for a tracking system, and queried how this squared with the NPPG, which provides that considering reasonably available sites could include a series of smaller sites.

³⁸ NPPF paragraph 209.

³⁹ CD B1.

⁴⁰ TBC considers that both the Sequential and Exception Tests are passed. SoCG paragraphs 8.24 and 8.25.

However, I accept that the approach adopted by the appellant was appropriate in the circumstances that apply here, given the likely difficulties in obtaining planning permission for a number of separate sites, and the practicalities of coordinating multiple sites so as to utilise the identified grid capacity in the time period specified in the grid connection offer. I concur with the parties that the proposal satisfies the Sequential Test.⁴¹

52. The solar panels would be elevated 0.8m above ground level and so would not be likely to impede any surface water flow paths or displace any ponding of surface water. I am satisfied that the submitted Flood Risk Assessment demonstrates that the proposed development would not result in any increase in flood risk off-site or increase flood risk on-site.⁴² Measures proposed for fluvial and tidal flooding would adequately address any groundwater flooding. The evidence before the Inquiry is that the scheme could be designed and constructed to remain operational and safe in times of flood. These are matters that could be addressed by the imposition of an appropriate planning condition. Renewable energy from the scheme would provide wider sustainability benefits to the community that would outweigh any flood risk. The proposed development complies with the Exception Test. I find no conflict with Policies CSTP27 and PMD15 concerning flood risk assessment and management.
53. There is local concern about the effects of construction vehicles on the local highway network, particularly with regard to the railway level crossing and nearby bends in High Road. However, there is no technical evidence to indicate that traffic from the proposed development would pose an unacceptable adverse effect on highway safety. The Highway Authority does not object to the proposal subject to the imposition of planning conditions.⁴³ I find no conflict with Policies PMD9 and PMD10 concerning the road network and transport impacts.
54. Noise from the proposed generation station could be controlled by a planning condition.⁴⁴ There is concern about glint and glare from the solar panels adversely impacting residential properties and aviation. The technical evidence does not support this view and indicates that glint and glare are matters that could be addressed by implementing an approved management plan.⁴⁵
55. There is local concern about battery fires. However, there are no outstanding objections from Essex County Fire and Rescue Service.⁴⁶ I am satisfied that fire safety is a matter that could be reasonably addressed by implementing an up to date and approved Battery Safety Management Plan.
56. The agricultural land within the appeal site is classified as grade 3b. The proposal would not, therefore, utilise the best and most versatile agricultural land. Some agricultural activity is proposed to be continued on the land during the lifetime of the generating station by grazing between the panels. A grazing management plan could be required by imposition of a planning condition. On

⁴¹ CD C16, ID4 and ID10.

⁴² CD A9.

⁴³ CD B4.

⁴⁴ CD A10.

⁴⁵ CD A25.

⁴⁶ CD B3.

decommissioning of the generation station, the site would revert to agricultural use.⁴⁷

57. The Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar sites are located 3 km to the south of the appeal site. I have had regard to the submitted Habitats Regulations Assessment (HRA).⁴⁸ This found that, when applied to the project alone, a likely significant effect on the SPA and Ramsar sites cannot be ruled out. Both sites have interest features that are non-breeding birds and assemblages of waterbirds. The Ramsar site has interest features that are plant and invertebrate species. I have taken into account the consultation responses from Natural England, Essex Wildlife Trust and the Royal Society for the Protection of Birds.⁴⁹ Natural England has no objection to the amended proposal subject to a long-term ecological management plan secured by a suitably worded condition attached to any permission.
58. I am satisfied that the HRA provides sufficient information for me to undertake an Appropriate Assessment having regard to the interest features and conservation objectives for these sites.⁵⁰ The appeal scheme proposes the creation of waterbird mitigation land. The creation, management and monitoring of the waterbird mitigation land could be secured through an approved Ecological Management Plan. Subject to mitigation measures that could be secured by the imposition of appropriate planning conditions, I conclude that the proposed development, alone or in combination with other plans or projects, would not affect the achievement of the conservation objectives of the SPA and Ramsar sites, and would not adversely affect the integrity of these sites.
59. In addition to the matters dealt with elsewhere in this decision, third party written representations raised concerns about a number of other matters. These are summarised in CD C11A Appendix 4 and include; tracking panels are unreliable and are incompatible with sheep grazing, the development would be too close to homes, would result in an invasion of privacy from CCTV cameras, and have a negative impact on the mental health and well-being of local residents. The evidence adduced does not indicate, subject to the imposition of appropriate planning conditions, that these are matters that weigh against the proposal. I have taken into account all other matters raised in the written representations at the application and appeal stages.

Other considerations

60. TBC and the appellant set out in a joint statement their respective views about 'other considerations' for the purposes of undertaking the very special circumstances balance.⁵¹ The 'considerations' listed in the joint statement are underlined in the following paragraphs.
61. Renewable energy generation and subsequent reduction in carbon emissions. The proposed generation station would supply up to 49.9 MW of electricity to the national grid. This would be the equivalent to the annual electricity needs of about 16,100 family homes in Thurrock. It is estimated that this would displace around 23,600 tonnes per annum of carbon dioxide. Paragraph 157 of

⁴⁷ CD A14 and SoCG paragraphs 8.31 and 8.32.

⁴⁸ CD A17, CD A23 and CD A24.

⁴⁹ CD B8, CD B13 and CD B14.

⁵⁰ CD C18.

⁵¹ CD C15.

the NPPF states that the planning system should support the transition to a low carbon future in a changing climate, and support renewable and low carbon energy and associated infrastructure.

62. The associated battery storage facility would assist in balancing peak demand for electricity, providing more flexibility for the grid and the possibility of offsetting fossil fuel requirements at peak times. The co-location of a BESS would mean that the renewable energy generated could be used more effectively.⁵² The scheme would be beneficial for energy security. It would help to deliver the Government's goals for greater energy independence. This adds to the weight to be given to the generation of renewable energy per se. The lack of alternative sites to take advantage of the available grid connection is a consideration that warrants some slight weight. But this is a consideration that is closely related to the overall benefits of the scheme arising from the renewable energy that would be generated.
63. The UK Government and TBC have both declared a climate emergency.⁵³ These declarations point to a need for the rapid delivery of renewable energy generation. By themselves such declarations do not increase the weight to be attributed to the renewable energy benefits of the proposed development. For a comparable scheme the carbon benefits would remain the same for a local authority that had not declared a climate emergency.
64. The appellant argues that utilising a solar tracking system with bi-facial panels would increase continuous electrical productivity by 20-25% when compared with fixed solar arrays, and that the use of best available technology should be given weight in its own right. But I am not convinced that this is additional weight. It would be in the commercial interests of the operator to fully use the secured grid connection capacity. Fixed panels would be a cheaper option, but it is unlikely that fixed panels occupying the same area proposed for solar panels in the appeal scheme would make effective use of the available grid connection.
65. In a transmission versus grid connection consideration additional weight is claimed for a connection directly into the National Grid rather than via the Distribution Network. While this might avoid delays in securing a connection agreement with the Distribution Network Operator, it seems to me that meeting national targets will require all available capacity within the electricity distribution network to be fully exploited, and that the circumstances that apply here should not be given additional weight.
66. Policy CSTP26 provides encouragement for opportunities to generate energy from non-fossil fuel and low-carbon sources, but adds that a proposal would be unacceptable where it produces a significant adverse impact that cannot be mitigated. The harm I have identified to the Green Belt from inappropriate development cannot be mitigated. This brings the proposal into some conflict with Policy CSTP26. The appeal scheme would not constitute Critical National Priority NSIP development for the purposes of applying EN-1.⁵⁴ However, EN-1 provides that the Secretary of State will take as the starting point for decision-making that such infrastructure is to be treated as if it has met any very

⁵² The NPPG Paragraph 032 provides that storage can enable decarbonisation of the energy system through grid balancing, maximising usable output from intermittent low carbon generation, and avoiding the need for costly network upgrades and new generation capacity.

⁵³ CD E3.

⁵⁴ EN-1 paragraphs 4.2.4 and 4.2.5.

special circumstances test.⁵⁵ Given that the capacity of the appeal scheme falls just below the NSIP threshold, I believe that EN-1 is a material consideration, and that its underlying aims for energy development should be given more weight in this case than any conflict with Policy CSTP26.

67. The provisions of EN-1 and EN-3 do not apply a policy test to the appeal scheme. However, Section 2.10 of EN-3 provides that the Government is committed to sustained growth in solar capacity as a key part of its strategy for low-cost decarbonisation of the energy sector. It adds that solar also has an important role in delivering the Government's goals for greater energy independence and refers to *Powering Up Britain: Energy Security Plan*.⁵⁶ EN-3 cites the *British Energy Security Strategy* supporting solar that is 'co-located' with other functions, for example storage, to maximise the efficiency of land use.⁵⁷ I consider that the proposed generation station with the co-location of BESS gains support from the Government's underlying aims for solar development as expressed in EN-3. The proposal would make a cumulative contribution to meeting the target set out in the Climate Change Act 2008⁵⁸ and gains support from the UK Government Solar Strategy 2014⁵⁹, the Net Zero Strategy⁶⁰ and Energy White Paper⁶¹.
68. Overall, I consider that the collective benefits from renewable energy generation with co-location of BESS and energy security advantages should be given substantial positive weight in the very special circumstances balance.
69. The Fobbing Reedbeds Local Wildlife Site (LWS) is located within the appeal site. The Vange Creek Marshes LWS borders the site on its eastern side and the Corringham/Fobbing Marsh LWS borders the site on its eastern and south-eastern sides. Subject to the imposition of appropriate planning conditions I am satisfied that the appeal scheme would not have an unacceptable adverse effect on the nature conservation interests of these or other sites of wildlife interest further afield. Turning to Biodiversity Net Gain (BNG) the proposed development includes provision of 5.8 ha of waterbird mitigation land, 2.3 ha for a farmland bird feeding area, along with grassland enhancement and carr scrub planting.
70. The scheme would result in a BNG on the appeal site of approximately 28% for habitats and 1,353% for hedgerows.⁶² This could be achieved with implementation and enforcement of appropriate planning conditions. The scheme gains some support from Policies CSTP19 and PMD7, which encourage development to include measures that contribute positively to the overall biodiversity in the Borough and seek to achieve net gains where possible. I consider that the biodiversity benefits of the proposal should be given moderate weight in the very special circumstances balance.
71. Economic benefits including construction jobs, contribution to the local economy and rural diversification should be given slight/moderate weight. Paragraph 88 of the NPPF provides that planning decisions should enable the diversification of agricultural businesses. In assessing the weight to be given

⁵⁵ EN-1 paragraph 4.2.16.

⁵⁶ CD D19.

⁵⁷ CD D16.

⁵⁸ CD D6 and CD D7.

⁵⁹ CD D4.

⁶⁰ CD D15.

⁶¹ CD D10

⁶² SoCG paragraph 8.29.

to 'other considerations' for the balancing exercise that applies here, I consider that farm diversification would be largely a benefit to the local economy, and as such would not justify an allocation of separate weight in the planning balance. Nevertheless, to the extent that the scheme would contribute towards making British agriculture carbon neutral it should be awarded some positive weight.⁶³ But again, this is a consideration closely related to the overall benefits of the scheme arising from the renewable energy that would be generated and so could result in 'double counting' with the first 'consideration' in this section of my decision.

72. The appellant claims weight for green infrastructure enhancements that would include two green corridors through the proposed development. These enhancements, although beneficial, are intended to offset harmful impacts of the appeal scheme. They should not, in my view, be given much weight in a very special circumstances balancing exercise. The west/east corridor would incorporate a permissive path along a route that is currently used as an unofficial path. The proposed permissive path should attract no weight because it appears that the unofficial path was created because Footpath 199 is obstructed.
73. I am not convinced that soil regeneration should weigh positively in this balancing exercise. Leaving the soil undisturbed for 40 years would increase soil organic matter and benefit soil structure, but there is no evidence to indicate what effect removing solar panel foundations and other infrastructure on decommissioning would have on soil quality. Furthermore, suggested planning Condition 4 would require reinstatement of the land so that with aftercare it was of the same grade of agricultural quality as currently exists. Compliance with such a condition would not require enhancement of the soil. The proposal gains no support from Policy CSTP21, which recognises the importance of food security and ensures the protection, conservation and enhancement of agriculture, productive land and soil.
74. As an 'other consideration' to be weighed in the very special circumstances balance no weight should be given to the good design of the scheme, which I have found would result in significant harm to the character and appearance of the area.

Planning balance

75. In the planning balance that applies here the harm to the Green Belt attracts substantial weight. I consider that significant weight should be given to the harm that would result to the character and appearance of the area. Harm to the Church of St Michael attracts considerable importance and weight.⁶⁴ However, in my judgement, the overall minor harm to the heritage of the area I have identified should be given slight weight in the planning balance. Against this overall harm must be weighed the benefits of the proposed development. Chief amongst these is the significant contribution of the appeal scheme towards the generation of renewable energy and the reduction in greenhouse gas emissions, which warrants substantial weight. This, along with the weight to be given to the biodiversity and economic benefits of the appeal scheme would, in my judgement, clearly outweigh the harm I have identified.

⁶³ CD D21.

⁶⁴ CD I24.

Conditions

76. The appellant and TBC agreed suggested planning conditions in the event that the appeal succeeded, except for a requirement that the development be carried out in accordance with the recommendations and mitigation measures contained within the ES and schemes submitted with the application.⁶⁵ Such a condition would not meet the test for a reasonable planning condition because some of the recommendations and mitigation measures in the ES and submitted schemes do not specify with the necessary precision what would be required to comply with the condition.
77. In addition to the standard commencement condition, it would be necessary to define the permission and ensure that the development was carried out in accordance with the approved plans (Conditions 1 and 2). For the avoidance of doubt, it would be necessary to specify that the approval applied only to land within the site boundary edged red on Drawing 2033/D001.1 Revision v.k and within the administrative area of TBC, because some development is shown on the drawings outside the red line, and because the red line boundary extends into neighbouring Basildon.
78. This would be a temporary permission and reinstatement of the Green Belt site would be required after the use ceased in accordance with Policy PMD6 (Conditions 3 and 4). A separate Decommissioning Traffic Management Plan (DTMP) would be necessary as it would not be appropriate after 40 years to rely on the plan approved for construction traffic. A revised Construction Traffic Management Plan (CTMP) would need to be approved, and provision made for road surveys, in the interests of highway safety in accordance with Policy PMD1 (Conditions 5 and 7). Approval of a Construction Environmental Management Plan (CEMP) would be needed to safeguard the amenity of the area (Condition 6).
79. A Landscape and Ecological Management Plan (LEMP) would be necessary for landscape and biodiversity reasons in accordance with Policies PMD1, PMD2, PMD6 and PMD7. The July 2021 Landscape and Ecological Management Plan refers to a management programme for the site and funding arrangements, along with a monitoring programme.⁶⁶ For the avoidance of doubt it would be necessary to specify that these are matters that would need to be included in an approved LEMP (Condition 8).
80. An Ecological Management Plan requiring waterbird mitigation land would be necessary to mitigate any adverse impact on the integrity of the SPA and Ramsar sites. Given the importance of the Ecological Management Plan, no development or preliminary groundworks should commence prior to its approval, and it would need to be implemented in strict accordance with the approved details. The waterbird mitigation land would need to be created prior to the installation of any part of the proposed development. The tailpiece in the suggested planning condition, which would permit the Local Planning Authority to approve in writing deviations from the approved Ecological Management Plan, should not apply because of the possibility of unforeseen adverse impact affecting the integrity of the SPA and Ramsar sites (Condition 9).

⁶⁵ ID11.

⁶⁶ ID7 Sections 5 and 6.

81. Provision would need to be made for the remediation of any land contamination for health and safety reasons in accordance with Policy PMD1 (Condition 10). An archaeology condition in accordance with Policy PMD4 would deal adequately with local heritage considerations (Condition 11). Lighting would need to be controlled in the interests of the appearance of the area in accordance with Policies PMD1, PMD2 and PMD7 (Condition 12).
82. Implementation of an up to date Battery Safety Management Plan (BSMP) would be necessary for fire safety reasons in accordance with Policy PMD1 (Condition 13). This Policy would also apply to glint and glare, which would need to be controlled to safeguard the amenity of the area (Condition 14). For similar reasons, a noise condition would also be required (Condition 15). Securing continued agricultural use of the site by grazing would be necessary to accord with the scheme that was considered at the Inquiry (Condition 16).
83. Paragraph 8.28 of the SoCG states that planning conditions relating to managing flood risk and drainage should be included if the appeal was allowed. I concur. But no such condition was included in the suggested conditions. A planning condition would be necessary to give effect to the requirements of the Flood Risk Assessment and Drainage Strategy (Parts 1 and 2), prepared by RMA Environmental, dated July 2021 (R010) (Condition 17).⁶⁷
84. It is the appellant's intention that the AC output of the energy generation station would be restricted to 49.9 MW through the installed combined inverter/transformer units. That would be consistent with policy for NSIPs. EN-3 states that the combined capacity of the installed inverters (measured in AC) should be used for the purposes of determining solar site capacity.⁶⁸ The capacity of the proposed inverters for the appeal scheme is unspecified. Although not suggested by the parties, I consider that it would be necessary to impose a condition requiring approval of details about the proposed inverters that included their capacity (Condition 18).
85. Some minor changes to the wording of suggested conditions would be necessary for clarity and enforceability reasons.

Conclusions

86. I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.
87. Given my finding of very special circumstances, and subject to the imposition of appropriate planning conditions, I am satisfied that the impacts of the proposed development could be made acceptable, and that in accordance with NPPF paragraph 163 b) the scheme should be approved. The proposal complies with the NPPF taken as a whole.
88. The existence of very special circumstances for the purposes of applying the NPPF means that the proposal accords with Policy PMD6, which seeks to maintain, protect and enhance the open character of the Green Belt in Thurrock in accordance with the provisions of the NPPF. The appeal scheme would not be at odds with the part of Policy PMD6 which states that TBC will plan positively to enhance the beneficial use of the Green Belt by looking for

⁶⁷ CD A9A and B.

⁶⁸ EN-3 paragraph 2.48.7.

opportunities to, amongst other things, retain and enhance landscapes and visual amenity. Any conflict with Policies CSTP23, CSTP26 and PMD2 would not be sufficient to bring the proposal into contravention of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development, when considered as a whole. I find no conflict with other relevant development plan policies and consider that the proposal accords with the development plan taken as a whole.

89. I have taken into account all other matters raised in evidence, but I have found nothing of sufficient weight to alter my conclusions. For the reasons given I conclude that the appeal should succeed.

J Woolcock

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mark O'Brien O'Reilly of counsel	Instructed by Caroline Robins Locum Principal Solicitor Thurrock Council
He called	
Christopher Whitehouse BSc (Hons) MRICS	Managing Director NextPhase

FOR THE APPELLANT:

Thea Osmund-Smith of counsel and Odette Chalaby	Instructed by Paul Burrell Executive Director Pegasus Group
They called	
Ben Croot BSc (Hons) MSc CMLI	Associate LDA Design Consulting Ltd
Gail Stoten BA (Hons) MCIfA FSA	Executive Director (Heritage) Pegasus Group
Paul Burrell BSc (Hons) Dip UP MRTPI	Executive Director (Planning) Pegasus Group

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

ID	1	Opening Statement on behalf of the Appellant
ID	2	Opening Submissions on behalf of the Local Planning Authority
ID	3	Alfreton Appeal Ref:APP/M1005/W/22/3299953
ID	4	Further Note on Flood Risk Sequential Test
ID	5	C17 Technical Note Queries Response
ID	6	Walpole Marsh Appeal Ref:APP/A2525/W/22/3295140 and APP/V2635/W/22/3295141
ID	7	Landscape and Ecological Management Plan July 2021
ID	8	Viewpoint A
ID	9	Annotated Wider Landscaping Plan
ID	10	Offer Summary Document National Grid
ID	11	Suggested planning conditions dated 12 January 2024
ID	12	Closing submission on behalf of the Local Planning Authority
ID	13	Closing submission on behalf of the appellant

CORE DOCUMENTS (CD)

Reference		Documents and Drawings
A1	A	Thurrock Council Application Form, including Ownership Certificates
	B	Basildon Borough Council Application Form, including Ownership Certificates
A2	A	Covering Letter to Thurrock Council prepared by Enso Energy, dated 23 rd September 2021
	B	Covering Letter to Basildon Borough Council prepared by Enso Energy, dated 23 rd September 2021
A3	A	Planning Application Drawing Pack, prepared by Aardvark EM Limited and Cero (RO02)
	Bi)	Site Location Plan 1 of 6, prepared by Aardvark EM Limited, dated 30 th June (2033/D001.1 Rev v.i)
	Bii)	Site Location Plan 2 of 6, prepared by Aardvark EM Limited, dated 30 th June (2033/D001.2 Rev v.i)
	Biii)	Site Location Plan 3 of 6, prepared by Aardvark EM Limited, dated 30 th June (2033/D001.3 Rev v.i)
	Biv)	Site Location Plan 4 of 6, prepared by Aardvark EM Limited, dated 30 th June (2033/D001.4 Rev v.i)
	Bv)	Site Location Plan 5 of 6, prepared by Aardvark EM Limited, dated 30 th June (2033/D001.5 Rev v.i)
	Bvi)	Site Location Plan 6 of 6, prepared by Aardvark EM Limited, dated 30 th June (2033/D001.6 Rev v.i)
	C	Proposed Site Plan, prepared by Enso Energy and Cero, dated 24 th June 2021 (FO2.0 Rev 15)
	D	Auxiliary Transformer, prepared by Cero, dated 17 th March 2021 (FO10.0 Rev 01)
	E	Battery Container Elevations, prepared by Cero, dated 17 th March 2021 (FO12.0 Rev v01)
	F	Battery Fence and Gate Elevations, prepared by Cero, dated 4 th June 2021 (FO14.0 Rev 01)
	G	Cable Trough, prepared by Cero, dated 4 th June 2021 (FO15.0 Rev 01) – reference on plan FO15.0
	H	CCTV Elevations, prepared by Cero, dated 17 th March 2021 (FO11.0 Rev 01)
	I	Control Room Elevations, Prepared by Cero, dated 17 th March 2021 (FO9.0 Rev 01)
	J	Fence and gate elevations, prepared by Cero, dated 4 th June 2021 (FO6.0 Rev 02)
	K	Internal Access Road Detail, prepared by Cero, dated 17 th March 2021 (FO5.0 Rev 01)
	L	Inverter/Transformer Station, prepared by Cero, dated 17 th March 2021 (FO4.0 Rev 01)
	M	PV Elevations Ballast, prepared by Cero, dated 22 nd July 2021 (FO3.1 Rev 02)
	N	PV Elevations Pile, dated 22 nd July 2021 (FO3.0 Rev 02)
	O	High Road Access Junction Arrangement, prepared TPA, dated 20 th March 2020 (SK01 Rev C)
	P	Storage Container Elevations, prepared by Cero, dated 17 th March 2021 (FO13.0 Rev 01)

	Q	Substation Elevations, prepared by Cero, dated 17 th March 2021 (FO8.0 Rev 01)
	R	Weather Station, prepared by Cero, dated 17 th March 2021 (FO7.0 Rev 01)
	S	Proposed Landscape and Ecological Enhancement Plan, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_100 Rev B)
	Ti)	Detailed Soft Landscaping Plan: Overview Plan, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_200 Rev B)
	Tii)	Detailed Soft Landscaping Plan 1 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_201 Rev B)
	Tiii)	Detailed Soft Landscaping Plan 2 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_202 Rev B)
	Tiv)	Detailed Soft Landscaping Plan 3 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_203 Rev B)
	Tv)	Detailed Soft Landscaping Plan 4 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_204 Rev B)
	Tvi)	Detailed Soft Landscaping Plan 5 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_205 Rev B)
	Tvii)	Detailed Soft Landscaping Plan 6 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_206 Rev B)
	Tviii)	Detailed Soft Landscaping Plan 7 of 7, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_207 Rev B)
	U	Planting Schedule, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_208 Rev B)
A4		Planning Statement, prepared by Aardvark EM Limited, dated July 2021 (ROO3)
A5		Design and Access Statement, prepared by Aardvark EM Limited, dated July 2021 (ROO4)
A6	A	Non-Technical Summary of the Environmental Statement (Part 1 of 2), prepared by Aardvark EM Limited, dated July 2021 (ROO6)
	B	Non-Technical Summary of the Environmental Statement (Part 2 of 2), prepared by Aardvark EM Limited, dated July 2021 (ROO6)
A7	A	Environment Statement- Contents Page (Part 1 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)
	B	Environment Statement- Chapter 1- Introduction (Part 2 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)
	C	Environment Statement- Chapter 2- Site and Its Environs (Part 3 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)
	D	Environment Statement- Chapter 3- Proposed Development (Part 4 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)
	E	Environment Statement- Chapter 4- Policy (Part 5 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)
	F	Environment Statement- Chapter 5- Assessment Methodology (Part 6 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)
	G	Environment Statement- Chapter 6- Landscape and Visual (Part 7 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)
	H	Environment Statement- Chapter 7- Biodiversity (Part 8 of 11), prepared by Aardvark EM Limited, dated July 2021 (ROO7)

	I	Environment Statement- Chapter 8- Cultural Heritage (Part 9 of 11), prepared by Aardvark EM Limited, dated July 2021 (R007)
	J	Environment Statement- Chapter 9- Other Considerations (Part 10 of 11), prepared by Aardvark EM Limited, dated July 2021 (R007)
	K	Environment Statement- Chapter 10- Glossary (Part 11 of 11), prepared by Aardvark EM Limited, dated July 2021 (R007)
A8	A	Environment Statement-Appendix 1.1: TC Screening Opinion (Part 1 of 16), prepared by Thurrock Council, dated 28 th July 2020 (R008)
	B	Environment Statement-Appendix 1.2: TC Screening Opinion (Part 2 of 16), prepared by Thurrock Council, dated 9 th September 2020 (R008)
	C	Environment Statement-Appendix 1.3: EIA Team (Part 3 of 16), prepared by Aardvark EM Limited (R008)
	D	Environment Statement-Appendices 6.1 to 6.6: LVIA (Part 4 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)
	E	Environment Statement-Appendix 6.7 LVIA- Figures 6.1 to 6.6 (Part 5 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)
	F	Environment Statement-Appendix 6.7 LVIA- Figure 6.7.1- 6.7.10 (Part 6 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)
	Gi)	Environment Statement-Appendix 6.7 LVIA- Part 1 Photomontages- Figure 6.8.1 (Part 7 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)
	Gii)	Environment Statement-Appendix 6.7 LVIA- Part 2 Photomontages- Figure 6.8.2-6.8.3 (Part 8 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)
	Giii)	Environment Statement-Appendix 6.7 LVIA- Part 3 Photomontages- Figure 6.8.4 (Part 9 of 16), prepared by LDA Design Consulting Ltd, dated June 2021 (R008)
	H	Environment Statement-Appendix 7.1 Findings of the Ecology Surveys (Part 10 of 16), BSG Ecology, June 2021 (R008)
	I	Environment Statement-Appendix 7.2 Assessment of Intervisibility (Part 11 of 16), BSG Ecology, June 2021 (R008)
	J	Environment Statement-Appendix 7.3 BNG Report (Part 12 of 16), BSG Ecology, June 2021 (R008)
	Ki)	Environment Statement- Heritage Technical Appendix 8.1 (Part 13 of 16) prepared by Headland Archaeology, dated August 2020 (R008)
	Kii)	Environment Statement- Heritage Technical Appendix 8.2 (Part 14 of 16), prepared by Wessex Archaeology, dated February 2021 (R008)
	Kiii)	Environment Statement- Heritage Technical Appendix 8.2 (Part 15 of 16), prepared by Wessex Archaeology, dated February 2021 (R008)
	Kiv)	Environment Statement- Heritage Technical Appendix 8.2 (Part 16 of 16), prepared by Wessex Archaeology, dated February 2021 (R008)
A9	A	Flood Risk Assessment and Drainage Strategy (Part 1 of 2), prepared by RMA Environmental, dated July 2021 (R010)
	B	Flood Risk Assessment and Drainage Strategy (Part 2 of 2), prepared by RMA Environmental, dated July 2021 (R010) March 2021
A10		Noise Impact Assessment, prepared by Inacoustic, dated July 2021 (R011)
A11		Glint and Glare Assessment, prepared by Pager Power, dated June 2021 (R012)

A12		Statement of Community Involvement, prepared by Alpaca Communications, dated July 2021 (RO13)
A13		Ground Investigation Report, prepared by Jomas Associates, dated July 2021 (RO14)
A14		Agricultural Land Classification, prepared by Amet Property, dated July 2021 (RO15)
Thurrock Council Re-submission 1 st October 2021		
A15	A	Site Location Plan 1 of 6, prepared by Aardvark EM Limited, dated 30 th September 2021 (2033/D001.1 Rev v.k)
	B	Site Location Plan 2 of 6, prepared by Aardvark EM Limited, dated 30 th September 2021 (2033/D001.2 Rev v.k)
	C	Site Location Plan 3 of 6, prepared by Aardvark EM Limited, dated 30 th September 2021 (2033/D001.3 Rev v.k)
	D	Site Location Plan 4 of 6, prepared by Aardvark EM Limited, dated 30 th September 2021 (2033/D001.4 Rev v.k)
	E	Site Location Plan 5 of 6, prepared by Aardvark EM Limited, dated 30 th September 2021 (2033/D001.5 Rev v.j)
	F	Site Location Plan 6 of 6, prepared by Aardvark EM Limited, dated 30 th September 2021 (2033/D001.6 Rev v.j)
Thurrock Council Re-submission 11 th October 2021		
A16		Construction Traffic Management Plan, prepared by TPA, dated June 2021 (Ref R005)
Thurrock Council Re-submission 16 th March 2022		
A17		Ecology Report to Inform Appropriate Assessment, prepared by BSG, dated March 2022 (P21-948)
Thurrock Council Re-submission 5 th December 2022		
A18		Technical Note on changes to BNG Calculations, prepared by BSG, dated December 2022
A19		Landscape Amendments Briefing Note, prepared by LDA Design, dated December 2022
Thurrock Council Re-submission 5 th December 2022		
A20		Landscape and Ecology Enhancement Plan, prepared by LDA Design Consulting Ltd, dated July 2021 (Ref 7428_100 Rev B)
A21		Proposed Site Plan Showing Reduced Site Areas, prepared by Enso Energy and Cero, dated 13 th October 2022 (F02.0 Rev 19)
A22		Proposed Site Plan, prepared by Enso Energy and Cero, dated 14 th October 2022 (F02.0 Rev 19)
A23		Non-breeding Waterbird Migration Technical Note, prepared by BSG, dated August 2022
Thurrock Council Submitted 22 nd February 2023		
A24		Habitat Regulation Assessment, prepared by Thurrock Council, dated February 2023
Thurrock Council Re-submission 10 th May 2023		
A25		Glint and Glare Assessment with Site Survey, Mitigation and Management Plan, prepared by Page Power, dated May 2023
Committee Reports		
A26		Thurrock Council Committee Report 16 th March 2023

A27		Thurrock Council Committee Report Updates 8 th June 2023
A28		Basildon Council Committee Report 5 th September 2023
Committee Meeting Minutes		
A29		Thurrock Council Committee Minutes 16 th March 2023
A30		Thurrock Council Committee Minutes 8 th June 2023
A31		Basildon Council Committee Minutes 5 th July 2023
A32		Basildon Council Committee Minutes 7 th September 2023
Decision Notice		
A33		Thurrock Council Decision Notice, dated 12 TH June 2023
Acknowledgement Letter		
A34		Basildon Council Acknowledgement Letter 22 nd October 2021
Thurrock Council Application Statutory Consultee Responses		
B1		Environment Agency, dated 2 nd November 2021
B2		Essex Police, dated 10 th November 2021
B3	A	Fire Brigade, dated 12 th May 2023
	B	Fire Brigade, dated 18 th May 2023
	C	Fire Brigade, email dated 30 th May 2023
	D	Fire Brigade, dated 19 th April 2023
B4	A	Highways Authority, dated 14 th October 2021
	B	Highways Authority, dated 1 st November 2021
B5		Historic England, dated 6 th December 2021
B6		Historic Buildings, dated 21 st December 2021
B7	A	Landscape, Arboriculture and Ecology, dated 10 th January 2022
B7	B	Landscape, Arboriculture and Ecology, dated 8 th February 2023
B8		Natural England, dated 26 th January 2023
B9		Public Rights of Way, dated 2 nd November 2021
B10		Specialist Archaeological Advice, dated 29 th October 2021
B11		Cadent Gas Limited, dated 14 th October 2021
B12		Environment Health, dated 22 nd March 2022
B13		Essex Wildlife Trust, email dated 18 th January 2023
B14		RSPB, dated 25 th January 2023
B15		Rochford District Council, dated 10 th March 2023
Planning Appeal		
Appeal Administration		
C1		Thurrock Council Pre-Notification Form dated 11 th July 2023
C2		Basildon Borough Council Decision Notice dated 8 th September 2023
C3		Submitted Appeal Forms, dated 31 st August 2023
C4		Thurrock Council Appeal Questionnaire, dated 26 th September 2023
C5	A	Neighbour Notification Letter, dated 22 nd September 2023
	B	Neighbour Notification List, dated 20 th September 2023
	C	Newspaper advertisement, dated 14 th October 2023

Statements of Case		
C8		Statement of Case, prepared by Pegasus Group, dated August 2023
C9		Statement of Case, prepared by Thurrock Council, dated 23 rd October 2023
Statement of Common Ground		
C10		Agreed Statement of Common Ground, dated 14 th November 2023
Proofs of Evidence		
C11	A	Planning Policy Considerations and the Planning Balance, by Paul Burrell
	B	Landscape and Visual and Green Belt Purposes, by Ben Croot
	C	Heritage Considerations, by Gail Stoten
	D	Planning Policy Considerations and the Planning Balance, Chris Whitehouse
	E	Planning PoE: Erratum, by Christopher Whitehouse
Rebuttals		
C12	A	Planning Rebuttal Evidence, by Paul Burrell
	B	Rebuttal Landscape Proof of Evidence, by Ben Croot
	C	Heritage rebuttal, by Gail Stoten
Conditions		
C13		Draft Planning Conditions
Position Statements		
C14		Planning Policy Joint Position Statement between the Appellant and Thurrock Council
C15		Joint Position Statement between the Appellant and Thurrock Council on 'other considerations' for the purposes of NPPF Paragraph 153 (Green Belt Very Special Circumstances balance)
C16		Position Statement – Sequential and Exception Tests, prepared by the Appellant
C17		Fobbing Solar Farm – Technical Note, prepared by the Appellant
C18		Habitat Regulations Assessment – Thames Estuary RAMSAR/SPA between the Appellant and Thurrock Council
Statement of Common Ground - Addendum		
C19		Agreed Addendum to the Statement of Common Ground, dated January 2024
National Planning Policy, Guidance and Legislation		
D1		National Planning Practice Guide (<i>Electronic Version only</i>)
D2	A	Overarching National Policy Statement for Energy (EN-1) (July 2011)
	B	Overarching National Policy Statement for Energy (EN-1) (November 2023)
D3	A	National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)
	B	National Policy Statement for Renewable Energy Infrastructure (EN-3) (November 2023)
D4		UK Government Solar Strategy 2014
D5		Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25th March 2015
D6		Climate Change Act 2008

D7	Climate Change Act (2050 target amendment) Order 2019
D8	Clean Growth Strategy, published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017
D9	UK Parliament declaration of an Environmental and Climate Change Emergency in May 2019
D10	Energy White Paper: Powering our Net Zero Future published in December 2020
D11	UK Government press release of acceleration of carbon reduction to 2035, dated April 2021
D12	The latest version of the 'Digest of United Kingdom Energy Statistics', July 2023
D13	UK Energy Statistics Press Release published by the Department for Business, Energy & Industrial Strategy, June 2020.
D14	'Achieving Net Zero' published by the National Audit Office in December 2020
D15	Net Zero Strategy: Build Back Greener, dated October 2021.
D16	British Energy Security Strategy, updated 7th April 2022.
D17	2021 UK Greenhouse Gas Emissions, Provisional Figures, published by Department for Business, Energy and Industrial Strategy, dated 31 st March 2022.
D18	Subnational Electricity Consumption, Great Britain, 2005-2021, published by the Department for Business, Energy & Industrial Strategy, dated 22nd December 2022
D19	Powering Up Britain – Energy Security Plan (March 2023)
D20	UK Battery Strategy, published by the Department for Business & Trade (November 2023)
D21	Achieving Net Zero – Farming’s 2040 goal, published by the NFU, dated September 2019
D22	FES in Five, dated July 2023
Local Planning Policy, Guidance and Documents	
E1	Saved policies of the Thurrock Borough Local Plan 2012 (adopted September 1997)
E2	Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) adopted January 2015
E3	Thurrock Council Climate Emergency (October 2019)
Landscape	
F1	Guidelines for Landscape and Visual Impact Assessment 3rd Edition
F2	National Character Area Profiles Greater Thames Estuary (NCA 81), dated 2014
F3	Thurrock Greengrid Strategy 2006- 2011 (2006)
F4	Thurrock Green Infrastructure Framework Plan (2007)
F5	Thurrock Landscape Capacity Study (2005)
F6	Essex Landscape Character Assessment (2003)
F7	Thurrock Integrated Landscape Character Assessment – Part 2: Landscape Character Profiles Oct 2018 (LUC)
F8	Landscape Institute Technical Guidance Note 02/21 - Assessing landscape value outside of national designations
F9	Thurrock Integrated Landscape Character Assessment – Part 1: Introductory Chapters and Appendices Oct 2018 (LUC)
F10	The Essex Historic Landscape Characterisation Project (February 2011)

F11		Figure 1: Historic Landscape Characterisation – drawing no: P23-1652
F12		The Historic Landscape Characterisation Report for Essex, Volume 4 – Appendices (February 2011)
Green Belt		
G1		Thurrock Strategy Green Belt Assessment Stages 1a and 1b, January 2019 (PBA)
G2		Thurrock Strategy Green Belt Assessment Stages 1a and 1b, January 2019 (PBA) Appendices E and F
Heritage		
H1		Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15, dated February 2021
H2		Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment, dated July 2015
H3		Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Second Edition), dated December 2017
H4		Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment, dated April 2008
H5		Statements of Heritage Significance, Analysing Significance in Heritage Assets, Historic England Advice Note 12, dated October 2019.
H6		Fobbing Conservation Area Appraisal, Thurrock Council, March 2007
Relevant Decisions, Legal Judgements and Officer Reports		
I1		Catesby Estates Ltd v. Steer, EWCA Civ 1697, dated 18 th July 2018
I2		EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council, dated 26 th July 2013
I3		Application for the Cleve Hill Solar Park Order ("Cleeve Hill") reference EN010085
I4		Halloughton, Nottinghamshire APP/B3030/W/21/3279533 ("Halloughton"), solar farm and battery storage allowed on 18 th February 2022
I5		Langford, Devon APP/Y/1138/W/22/3293104 ("Langford") solar farm and battery storage allowed by Secretary of State on 5 th December 2022
I6		Chelmsford, Essex APP/W1525/W/22/3300222 ("Chelmsford"), solar farm and battery storage, allowed on 6 th February 2023
I7		Bramley, Hampshire APP/H1705/W/22/3304561 ("Bramley"), solar & battery storage, allowed on 13 th February 2023
I8		New Works Lane, Telford APP/C3240/W/22/3293667 ("Telford"), solar farm, allowed by Secretary of State on 27 th March 2023
I9		Wellington, Telford APP/C3240/W/22/3308481 ("Wellington"), solar farm, allowed on 9 th May 2023
I10		Scruton, Yorkshire APP/G2713/W/23/3315877 ("Scruton"), solar farm, allowed on 27 th June 2023
I11	A	Larks Green, Oxford ("Larks Green"), solar farm, approved by South Gloucestershire Council on 5 th January 2021 (Decision Notice)
	B	Larks Green, Oxford ("Larks Green"), solar farm, approved by South Gloucestershire Council on 4 th December 2020 (Officer Report)
I12	A	Cowley Oxford ("Cowley") solar farm, approved by South Oxfordshire District Council on 11 th January 2022 (Decision Notice)
	B	Cowley Oxford ("Cowley") solar farm, approved by South Oxfordshire District Council on 15 th December 2021 (Officer's Report)

I13		Land at Bishop's Itchington, Stratford on Avon AP/J3720/W/22/3292589 ("Bishop's Itchington"), allowed on 1 st December 2022
I14		Land at Halse Road, south of Greatworth, Northamptonshire APP/W2845/W/23/3315771 ("Copse Lodge"), solar farm, allowed on 14 th November 2023
I15		R. (on the application of William Corbett) v The Cornwall Council [2020] EWCA Civ 508
I16		Land at Crays Hall Farm, Church Lane, Crays Hill, Essex APP/V1505/W/23/3318171 ("Crays Hall"), solar farm, allowed on 30 th August 2023
I17		Rawfield Lane, Fairburn, Selby APP/N2739/W/22/3300623 ("Rawfield Lane"), battery storage, allowed on 1 st December 2022
I18		Land to the west of the A46, Sherbourne, Warwick APP/T3725/W/23/3317247 ("Sherbourne"), solar farm, allowed on 25 th September 2023
I19		Land West of Wolverhampton West Primary Substation, South Staffordshire Railway Walk, Wolverhampton APP/C3430/W/22/3292837, ("Wolverhampton Substation"), battery storage, allowed on 16 th August 2022
I20	A	Harrow Lane, Bulphan, Essex ("Harrow Lane"), approved by Thurrock Council on 21 st October 2021 (Officer's Report)
	B	Harrow Lane, Bulphan, Essex ("Harrow Lane"), approved by Thurrock Council on 21 st October 2021 (Decision Notice)
I21		Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government and others [2014] EWCA Civ 1386
I22		Turner v. SSCLG [2016] EWCA (CIV 466)
I23		Samuel Smith R (on the application of Samuel Smith Old Brewery [Tadcaster] and others (Respondents) V North Yorkshire County Council (Appellant) [2020} UKSC3)
I24		Barnwell Manor Wind Energy Limited Vs East Northampton District Council & Ors [2014] EWCA Civ 137
I25		Wychavon DC v Secretary of State for Communities and Local Government and Butler [2008] EWCA Civ 692
I26		Palmer vs Herefordshire Council & ANR [2016] EWCA Civ 1061, dated 4 th November 2016
I27		Mordue vs Secretary of State for Communities and Local Government and South Northamptonshire Council [2015] EWCA Civ 1243, dated 3 rd December 2015
I28		Bedford Borough Council vs Secretary of State for Communities and Local Government and Nuon UK Ltd [2013] EWHC 2847 (Admin), dated 26 th July 2013
I29		Forge Field Society vs Swindon Borough Council [2014] EWHC 1895 (Admin), dated 12 th June 2014
I30		Stroud District Council vs Secretary of State for Communities and Local Government & Gladman Developments Limited [2015] EWHC 488 (Admin), dated 6 th February 2015

SCHEDULE OF CONDITIONS (1-18)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans within the site boundary edged red on Drawing 2033/D001.1 Revision v.k and within the administrative area of Thurrock Borough Council:

2033/D001.1 Revision v.k	Site Location Plan 1 of 6
2033/D001.2 Revision v.k	Site Location Plan 2 of 6
2033/D001.3 Revision v.k	Site Location Plan 3 of 6
2033/D001.4 Revision v.k	Site Location Plan 4 of 6
2033/D001.5 Revision v.j	Site Location Plan 5 of 6
2033/D001.6 Revision v.j	Site Location Plan 6 of 6
SK01 Revision C	Access Junction Arrangement
FO3.0 REV.02	PV Elevations
FO3.1 REV.02	PV Elevations Ballast Foundation
FO4.0 REV.01	Inverter/Transformer Stations
FO5.0 REV.01	Internal Access Road Detail
FO6.0 REV.02	Fence and Gate Elevations
FO7.0 REV.01	Weather Station Detail
FO8.0 REV.01	Substation Elevations
FO9.0 REV.01	Control Room Elevations
FO10.0 REV.01	Auxiliary Transformer
FO11.0 REV.01	CCTV Elevations
FO12.0 REV.01	Battery Container Elevations 40ft
FO13.0 REV.01	Storage Container Elevations 40ft
FO14.0 REV.01	Battery Fence and Gate Elevations
FO15.0 REV.01	Cable Trough
7428_100 REV E	Landscape and Ecology
	Enhancement Plan
FO2.0 Rev 19	Proposed Site Plan

- 3) Planning permission is hereby granted for a temporary period of 40 years from the first commercial export of energy from the development hereby permitted. No later than one month following the first commercial export of energy the operator shall supply written notice to the Local Planning Authority of this event. On the 40th anniversary of the first commercial export of energy the development hereby permitted shall cease. The site shall thereafter be decommissioned in accordance with the Decommissioning Method Statement approved pursuant to Condition 4.
- 4) The development hereby permitted shall be removed from the site if the generation station is no longer in use or after a period of 40 years from the first commercial export of energy, whichever occurs earlier. No later than six months before the end of the 40-year period from the first commercial export of energy, or within six months of the generation

station being no longer in use, a Decommissioning Method Statement (DMS) for the decommissioning and site restoration, including a timetable for its implementation, shall be submitted for the written approval of the Local Planning Authority. The DMS shall make provision for the removal of the solar panels and associated works approved under this permission, and for the reinstatement of the land within the site so that with aftercare it is of the same grade of agricultural quality as when this permission was granted. The DMS shall include a Decommissioning Traffic Management Plan (DTMP). The DTMP shall include the number of HGV movements, routing of decommissioning vehicles and the timing of HGVs accessing the site. The DMS, as approved, shall be implemented in accordance with the approved details.

- 5) No construction works shall commence until a revised Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The revised CTMP shall include the number of HGV movements, routing of construction vehicles and the timing of HGVs accessing the site. Construction works shall only take place in accordance with the approved CTMP.
- 6) No construction works shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall contain or address the following matters:
 - a) Details about the construction of any access or temporary access, and details of temporary parking requirements;
 - b) Location and size of on-site compounds including the design layout of any proposed temporary artificial lighting systems;
 - c) Details of any temporary hardstandings;
 - d) Details of temporary hoarding;
 - e) Contact details for site managers including information about community liaison including a method for handling and monitoring complaints;
 - f) Wheel washing facilities;
 - g) Days and hours of construction activities; and
 - h) Detail outlined in the "Technical Note following consultation with Natural England" dated 19 August 2022 detailing how the timing/phasing of construction of the generation station will minimise disturbance to birds.

Works on site shall only take place in accordance with the approved CEMP.
- 7) No construction works shall commence until a Road Condition Survey Plan (RCSP) has been submitted to and approved in writing by the Local Planning Authority. The RCSP shall survey the roads leading to the site before development commences and shall survey the roads within one month following the completion of construction works. Any degradation of the existing road surfaces directly due to the impact of construction of the development shall be remediated in accordance with remediation details to be included in the RCSP within three months following the completion of the construction works.
- 8) Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) in accordance with the LEMP dated July 2021 (Ref: R009) shall be submitted to and approved in writing by the Local

Planning Authority. The submitted LEMP shall be based on the Landscape and Ecology Enhancement Plan (drawing ref: 7428_100 Rev E, dated June 2021) and shall include a management programme and funding arrangements for the site, along with a monitoring programme. The development shall be carried out in accordance with the approved details. Any trees or plants, which within a period of five years from the completion of the development dies, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size or species unless the Local Planning Authority approves alternatives in writing.

- 9) No development or preliminary groundworks shall commence until an Ecological Management Plan setting out the details of the creation, ongoing management and monitoring of the "waterbird mitigation land", which reflects the detail outlined in the "Technical Note following consultation with Natural England", dated 19 August 2022, as shown on Drawing No. 7428_100 Rev E, has been submitted to and approved in writing by the Local Planning Authority. The waterbird mitigation land shall be created prior to the installation of any part of the development hereby permitted. The waterbird mitigation land shall be created, and thereafter retained, managed and monitored, in strict accordance with the approved Ecological Management Plan.
- 10) In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. Work on site must stop and an investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme, including a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority. Remediation shall be carried out in accordance with the approved details. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority before works can recommence.
- 11) No development or preliminary groundworks shall commence until a programme of archaeological investigations has been secured and undertaken in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. A mitigation strategy detailing the excavation/preservation strategy for any archaeological deposits shall be submitted to and approved in writing by the Local Planning Authority following the completion of this work. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the completion of fieldwork, as detailed in the approved mitigation strategy. A post excavation assessment shall be submitted within six months of the completion of the fieldwork, unless otherwise approved in advance with the Local Planning Authority in writing. This shall include completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
- 12) No artificial external lighting or other security measures shall be installed until a lighting and security scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for

no permanent security lighting within the site, and that emergency lighting shall be manually operated. It shall include details about the type, quantity, height, intensity, position and direction of lighting, and usage during construction and operational phases. The lighting and security measures shall be implemented as approved and shall be retained at all times thereafter. No further lighting shall be installed without first having obtained planning permission from the Local Planning Authority.

- 13) Development of the battery compound and installation of the battery-based electricity storage system shall not commence until a Battery Safety Management Plan (BSMP) has been submitted to and approved in writing by the Local Planning Authority. The BSMP shall demonstrate how the operator has consulted with the Health and Safety Executive and the Fire and Rescue Service in prescribing and implementing the measures set out in the BSMP, which shall facilitate safety during the construction, operation and decommissioning of the battery storage facility, including the transport of new, used and replacement battery cells both to and from the development hereby permitted. The BSMP shall be implemented as approved. Thereafter, an updated BSMP, incorporating best practice guidance, policy and/or regulation at that time, shall be submitted to the Local Planning Authority for written approval every five years throughout the lifetime of the development. The most up to date approved BSMP shall be fully implemented at all times.
- 14) Development on site shall only take place in accordance with the Glint and Glare Assessment (Ref: R012 dated May 2023) and in accordance with the Glint and Glare Management Plan included in Chapter 8.
- 15) The cumulative rating sound level of the operational plant and equipment hereby permitted as part of this development shall have an operational noise level no greater than the existing background sound level during the operation of the scheme at the closest noise-sensitive receptors to the site as assessed in the Noise Impact Assessment (Ref: R011 dated July 2021).
- 16) No development shall take place until a Solar Farm Grazing Management Plan (SFGMP) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall describe the methods by which grazing will be maintained throughout the lifetime of the development. The development shall be carried out in accordance with the approved SFGMP.
- 17) Development on site shall only take place in accordance with the Flood Risk Assessment and Drainage Strategy (Parts 1 and 2) prepared by RMA Environmental (Ref: R010 dated July 2021).
- 18) No development shall take place until details of the inverters, including their capacity, have been submitted to and approved in writing by the Local Planning Authority. The inverters shall be implemented as approved and shall be retained at all times thereafter.



Appeal Decision

Site visit made on 20 November 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/A4520/W/24/3350689

Land immediately to the east of West Boldon Substation, West Boldon NE36 0BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Whirlwind Energy Storage Limited against the decision of South Tyneside Council.
 - The application Ref is ST/0486/23/FUL.
 - The development proposed is the construction and operation of a Battery Energy Storage System consisting of a landscaped compound surrounded by perimeter landscaping, accommodating up to 360 energy storage cabinets, associated power converter units, a grid connection compound containing a large transformer and air-insulated switchgear; two control rooms (one for the battery operator and one for the network operator); a site office, a storage container, and 7 CCTV masts.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction and operation of a Battery Energy Storage System consisting of a landscaped compound surrounded by perimeter landscaping, accommodating up to 360 energy storage cabinets, associated power converter units, a grid connection compound containing a large transformer and air-insulated switchgear; two control rooms (one for the battery operator and one for the network operator); a site office, a storage container, and 7 CCTV masts, at Land immediately to the east of West Boldon Substation, West Boldon, NE36 0BG in accordance with the terms of the application, Ref ST/0486/23/FUL, and the plans submitted with it, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The application form address cited: 'Land immediately to the east of West Boldon Substation, 400m south of the A184, and 300m east of the A189, West Boldon, South Tyneside NE36 0BG'. I have instead used the address from the decision notice and appeal form, for conciseness.
3. The decision notice added '7 CCTV masts' onto the description of development from the application form. For clarity, I have made the same amendment.

Main Issues

4. The appeal site is located within the Green Belt, as identified on the Key Diagram of the South Tyneside Local Development Framework (LDF) Core Strategy (CS). The emerging South Tyneside Local Plan, currently at Regulation 19 stage, proposes no changes in this regard.

5. The main parties have agreed that the proposal would represent inappropriate development in the Green Belt, under the terms of the National Planning Policy Framework ('the Framework') (2023) paragraphs 154 and 155. I concur with this position. The Framework paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. The main issues are therefore:
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on ecology; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

7. The site is a series of triangular grassed fields, although only approximately 0.9ha in the central part would be developed. It lies to the south of the A184/B1294 roundabout in West Boldon, with its eastern boundary running alongside the River Don, with open fields beyond and to the north. Part of its western boundary runs alongside the grounds of the West Boldon Lodge, with the West Boldon Substation beyond.
8. The proposal is to construct and operate a battery energy storage system (BESS) with an import and export capacity of up to 60 MW and a storage capacity of 120 MW. This would comprise up to 360 energy storage cabinets in 18 groups of 20, along with associated control infrastructure and landscaping. It would be enclosed by a high wire fence, with even higher CCTV masts. Consent is sought for a temporary period of 50 years, after which the site would be decommissioned and restored to its current state.
9. I find the magnitude of a 50 year timescale to be at the limits of what could reasonably be described as temporary development in the Green Belt, in terms of generational experience and future plan making. Notwithstanding the ability to reinstate the site to an acceptable condition after decommissioning, I find that the proposal should thus be considered to be permanent for the purposes of Green Belt and landscape character assessment in this instance.

Openness of the Green Belt

10. The Framework paragraph 142 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The CS Policy EA1(B) also identifies that the openness of the Green Belt will be protected and enhanced. Openness has spatial and visual aspects, and is a matter of planning judgement.
11. The Green Belt openness is clearly evident around and across the appeal site and the wider area of countryside. The appellant accepts that the proposal would affect this openness for the lifespan of the development. I similarly find that the introduction of the structures across and around the site would result in additional volumetric massing in spatial terms. Visually, the current open field would also be replaced with this built form, despite additional screening

from new planting. This would be most apparent immediately adjacent to the site along the cycle path, albeit less so in longer range views due to topography and vegetation screening. I address this impact on visual character and appearance below, but with relation solely to the openness of the Green Belt, I find the proposal would thus cause moderate harm.

12. Furthermore, the Framework paragraph 143 identifies five essential purposes of the Green Belt. I note the appellant's submissions in this regard about the relative size and location of the proposal. However, the site lies within a relatively narrow Green Belt gap between the built form of South Tyneside and Sunderland. It would thus conflict with the Framework aims of safeguarding the countryside from encroachment, checking the unrestricted sprawl of large built-up areas, and preventing neighbouring towns merging into one another. The proposal would therefore fail to accord with the Framework paragraph 143.
13. Overall, the proposal would result in inappropriate development in the Green Belt, and harm its openness and conflict with its purposes. It would thus conflict with the CS Policy EA1(B), and the Framework Section 13.

Character and Appearance

14. The site lies within open countryside, at the bottom of a gentle valley. At close range the height and bulk of the appeal structures would be clearly visible to passersby along the adjacent bridleway route between Boldon and Sunderland. The character of the open fields would change to one containing built form and infrastructure, exacerbated by the high boundary fencing.
15. West Boldon Lodge is an outdoor educational centre operated by Groundwork South and North Tyneside, and National Grid. It comprises a visitor centre 120m to the northwest of the proposed BESS, and an open area in the woodland and marsh around the West Boldon substation for outdoor activities. The BESS units and associated infrastructure would be visible within some views out from its rearmost field/allotment and adjacent woodland.
16. However, at close range the landscape is already dominated by the existing 5 pylons and overhead power lines, such that additional utilitarian infrastructure would not be completely alien. The security fencing would be relatively lightweight mesh, minimising its impact. The proposed height of the CCTV masts would be commensurate with their function.
17. Furthermore, all of these immediate views would be restricted and softened by existing and proposed hedgerows. There would be at most, very limited views of the site from the remainder of the Lodge's site. The immediate experience of being within nature would remain, alongside juxtaposition with the existing substation infrastructure. The vegetation and bridleway alignment to the south would heavily restrict views of the site, despite the height of the proposed structures. Overall, at close range I find there would be moderate harm to the landscape appearance, and the experience of its character.
18. The South Tyneside Landscape Character Study (2012) defines the area around the proposed BESS as the Boldon Fell Character Area. This is identified as being a characteristically urban fringe area predominantly in agricultural use, with larger fields. Limited areas of mature woodland are considered to have significant value, with areas of new planting also apparent. The presence of infrastructure including the main road network and overhead power lines dominates the area.

19. The landscape east of the site is relatively open and rolling in character, rising to towards the Boldon Hills. The appeal proposal would be visible when looking down from Downhill Lane and the properties coming off it, the Boldon Hills, and the highest part of Boldon Bridge. It would also be visible at a closer range from around the A184 roundabout junction to the north.
20. The BESS units would appear as large and regimented structures within this agricultural setting, and the grid connection compound would also be noticeable due to its height. However, this countryside is already dissected in two directions by relatively dominant lines of paired electricity pylons and overhead cables. The appeal proposal would be sited at the lowest point within this view where this infrastructure converges. As such, the pylons would form a visual association with it. It would also be visually subservient to them, and be set in front of the softer woodland backdrop around the substation.
21. The wide vista expanse also encompasses a range of buildings and road infrastructure. The proposal would also involve additional planting as mitigation, which would soften its impact, albeit not entirely screen it from view. A condition to agree the colour of the BESS units could ensure that they were grey or green, and the buildings would have green roofs, further muting the impact. The site size would not be excessive compared to the extent of the fields around. The outfall would have minimal visibility within this setting. I therefore do not find the proposal to be especially visually prominent within this context, with general retention of the open aspect and the area's distinctive characteristics.
22. For similar reasons, and particularly due to vegetation screening, the appeal proposal would only be briefly glimpsed in views from its west and south including from the A19.
23. Overall, I find that there would be moderate harm to the character and appearance of the area. The proposal would conflict with the LDF Development Management Policies (DMP) Policy DM1(A), which requires development to convey sensitive consideration of its surroundings, and the CS Policy EA1, which aims to conserve the best qualities of South Tyneside's built and natural environment and to preserve the special and separate characters of the urban fringe villages.
24. The DMP Policy DM7 also identifies amongst other matters, that development affecting the integrity and natural character of land which forms part of the borough's strategic green infrastructure, will only be approved where the benefits of development clearly outweigh any adverse impact. As I address the benefits of the scheme below, I have therefore not concluded at this point whether the proposal would conflict with policy DM7.

Biodiversity

25. The second reason for refusal is the absence of a significant biodiversity net gain delivery in order to compensate for the proposal's ecological impacts. The CS Policy EA3 seeks to optimise conditions for wildlife by measures including enhancing the biodiversity value of wildlife corridors.
26. The northern field is arable farmed. The central field comprises 'other neutral grassland' and is horse grazed, with the ecology evidence suggesting it has low to local value with no shortage of this type of habitat in the wider area. The site is partly located within an east-west wildlife corridor as defined within the CS

- Key Diagram, and a Local Wildlife Site (LWS) 'Make Me Rich Meadow', the majority of which lies to the south of the site and along the river. A further LWS 'Mount Pleasant Marsh' lies around the West Boldon Lodge and substation.
27. The site's natural character would be adversely impacted from the change to hardstanding, and the loss of a small part of the existing hedgerow. The small outfall pipe would lie within the LWS meadow. Construction and ongoing use may cause disturbance to local wildlife travelling along the wildlife corridor.
28. To address this, mitigation and enhancement measures include green roofing on the compound buildings, removal/thinning of non-native scrub and trees along the riverbank, removal of fencing alongside the river, treatment of invasive species, reseedling and management of neutral grassland, verge enhancement, and bat roost and bird nesting provision. There would be 88m of hedgerow maintained and enhanced, and 103m of new species rich native hedgerow planted as the northern boundary to the battery units. There would be no night time lighting, and construction disturbance would be temporary.
29. Incorporated within these measures, the proposal would deliver a biodiversity net gain (BNG) of 1.6% above the identified baseline. Although in accordance with the statutory requirements at the time the application was submitted, I find this increase to be almost negligible. Despite the positive nature of the 194% hedgerow net gain, I find the proposal's ecological impacts due to its location with respect to the wildlife corridor and the LWSs, are such that the proposed BNG would be insufficient to outweigh the harm.
30. However, the appellant suggests the imposition of a planning condition requiring at least 10% BNG. Based on the ecology evidence and the size of the overall site, I am satisfied sufficient land is available for additional biodiversity gain to be achieved. Given such facts, there is a realistic prospect of such measures being delivered on the site. As 10% would align with the statutory requirement were the proposal to be submitted as a new application at the present time, I find it reasonable to impose such a condition.
31. With this enhancement in place, the proposal would thus comply with those parts of the CS Policy EA3 and DMP Policy DM7 which require schemes to enhance nature conservation and biodiversity, and to have no adverse effect on Local Wildlife Sites and wildlife corridors.

Other Matters

Heritage Assets

32. Section 16 of the Framework requires great weight to be given to the conservation of designated heritage assets, and so I am required to consider the impact upon the West Boldon Conservation Area, and the listed buildings at Downhill Farm. Given the 400m and 50m distance to these heritage assets, and the proposal's location lower down and proximate to existing infrastructure, I find that their settings would be preserved. I note that the Council made the same conclusion.

Fire Safety

33. The Tyne and Wear Fire and Rescue Service did not object to the proposal. The appellant has explained in detail how the design and operation would take full account of advice from the National Fire Chiefs Council and relevant UK BESS

guidance, and that equipment would require relevant certification. Fire-fighting water would be held in an on-site underground reservoir, significantly in excess of the guideline amount. I could impose a condition to require additional detailed information relating to the scheme design, operation, and methods for responses in emergency scenarios. This further level of approval following consultation with the relevant parties, would provide additional assurance. As such, I am satisfied that fire safety matters have been satisfactorily addressed.

34. West Boldon Lodge has a completely separate access to the proposed BESS, which would remain available in the event of a BESS fire. Were West Boldon Lodge visitors required to evacuate due to an emergency at the substation, their evacuation muster point would be on the bridleway adjacent to the appeal site access. Although the Lodge raises concerns that visitors would potentially be at greater risk in this location, I am satisfied with the safety information provided such that this evacuation point would not be compromised.

Flood Risk and Watercourses

35. The proposed development is not located within flood zones 2 or 3. A detention basin would ensure appropriate management and discharge of surface water run-off via an outfall to the river. To address the contamination risk from surface water including that used for fire-fighting, the site would also incorporate an emergency waste-water storage system to intercept and contain any contaminated water within the site, and prevent it from potentially flowing into the River Don. Alongside the Council and the Lead Local Flood Authority, I am satisfied with the SuDS information and strategy provided. This would be bolstered by additional information to be approved via the imposition of conditions, to ensure that water discharge does not increase the risk of flooding or contamination.

Anti-Social Behaviour

36. Although interested parties consider the proposal would cause anti-social behaviour as has occurred at West Boldon Lodge, Northumbria Police has not objected to the proposal. There would be 24-hour monitoring, including site security, which would respond to any security matters. The appellant has also offered that the proposed system could be adapted to encompass parts of West Boldon Lodge site. I cannot give weight to this as a benefit of the proposal prior to any agreement from the Groundwork Trust, but this would be a sensible approach to attempt to allay such concerns.

Alternative Sites

37. I have assessed the proposal before me on its own merits. However, I am also unconvinced that the construction of the Hylton Castle substation on the nearby International Advanced Manufacturing Park makes the appeal proposal superfluous to requirements. That substation would serve existing and proposed advanced manufacturing within the Park. Moreover, the connection capacity has been secured at West Boldon for the appeal proposal. While no timescale for this has been identified, I accept the importance of proximity to reduce the significant cost of the high voltage connecting cable, and to reduce electrical transmission losses. The appellant also submits that any other locations using this connection point would also be within the Green Belt.

Noise

38. The Council has not objected on the grounds of noise, based on the submitted Noise Impact Assessment. Interested parties identify that additional noise may be discernible within part of the West Boldon Lodge site due to its proximity, however, the acoustic environment is already dominated by road noise. Although the Noise Impact Assessment does not identify exact noise levels due to the equipment specification needing to be the most up to date at the time of construction, any new noise source is predicted to be well below the measured background noise level in the day and night. Furthermore, an additional noise assessment would be required prior to commencement. I therefore find there would be no undue effect on visitors to the Lodge in this regard.

Further Matters

39. Although parties refer to a negative impact on the West Boldon Lodge educational activities and conservation work, it is unclear how specifically these would be compromised by a renewable energy facility, beyond those matters I have addressed above. Construction works would have some impact, but could be mitigated as far as possible through agreement of a construction management plan.
40. I note other local resident objections on matters including traffic generation, disruption to cycleway users, contamination and air pollution, disruption during construction, and loss of arable land. The Council did not raise any of these as reasons for refusal. I am similarly content that the proposal would either cause no harm in relation to these matters, or that potential harm would be satisfactorily addressed due to the imposition of appropriate conditions as identified below, such that there would be no unduly negative impacts.

Other Considerations

41. BESS developments import and store electrical power from renewable generators which would otherwise be wasted, and export this back into the grid during low generation periods or at periods of high demand. As such, they are categorised by the PPG as 'renewable and low carbon energy'. The PPG indicates benefits as being this flexible use of energy and the cost effective decarbonisation of the energy system. They allow balancing of demand without resorting to additional generation from fossil fuels, and also reduce the need for further fossil fuel-based grid balancing technologies. The West Boldon BESS would save between 2,592 and 4,044 tonnes of CO₂ per year.
42. South Tyneside Council declared a Borough-wide climate emergency in 2019, aiming for carbon neutrality by 2030. The Council identifies a commitment to being a champion for a carbon neutral future for South Tyneside, including using advocacy to influence actions that promote carbon reductions across the region. The proposal would also find support in the DMP Policy DM1(I) which requires development to be designed to achieve lower carbon emissions, and to be energy efficient and maximise the use of renewable and low carbon energy sources.
43. The Government also has well publicised Net Zero ambitions and targets, and the Framework paragraph 157 identifies that the planning system should support the transition to a low carbon future in a changing climate, and support renewable and low carbon energy and associated infrastructure. There is a clear national need for BESS facilities. Although the stored energy would not be

ringfenced solely to South Tyneside residents, the proposal would contribute to the achievement of these national and local ambitions, such that I give this significant benefit substantial weight.

44. The proposal would create the equivalent of approximately 2 new full-time jobs. There would also be jobs created during the construction phase, albeit over a time limited period. I give minor weight to this economic benefit. I give minor weight to the benefit of the 10% BNG.

Conditions

45. I have imposed the Council's suggested conditions, subject to slight amendment to reflect paragraph 56 of the Framework and the Planning Practice Guidance. The appellant has agreed to my suggested conditions, including those for which pre-commencement consent is required.
46. I have attached the statutory condition to limit the lifespan of the planning permission, and specified the approved plans to provide clarity for the terms of the permission (condition 1, 2). A condition to limit the operational period to 50 years is needed to manage the impacts on the openness of the Green Belt (3).
47. A water drainage scheme shall ensure that drainage and flood risk and impact on wildlife are properly addressed (4, 5). A 10% BNG is required as outlined in my reasoning above, so I have included additional conditions than suggested by the Council, to require a biodiversity plan, and a habitat management and monitoring plan with notice in writing following implementation (6, and 7). Further protection for biodiversity requires the provision of an Invasive Non-Native Species survey (8), a Construction Environmental Management Plan (9), and lighting details (13).
48. A Construction Method Statement and a noise assessment are required to minimise undue adverse impacts, including on highway safety and amenity impacts particularly for West Boldon Lodge visitors (10, 11). The Tyne and Wear Fire Rescue Service has provided detailed requirements for a risk reduction and mitigation strategy to minimise the impact of an incident. I have condensed this advice within a single condition in the interests of brevity (12).
49. Conditions are imposed to ensure that hard and soft landscaping, and external finishes of buildings and structures, help to minimise the proposal's visual impact on the local character (14, 15). A condition to require details of the security system allows for discussions to be held regarding its expansion to also cover the West Boldon Lodge site, as identified above (16).
50. Finally, conditions to require suitable decommissioning of the BESS and restoration of the site are in the interests of character and appearance, and ensure the 50 year timeframe or an earlier timeframe if the BESS ceases to operate for more than 6 months (17, 18, 19).

Planning Balance

51. The Framework Paragraph 153 makes clear that substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

52. The proposed development would reduce the openness of the Green Belt, and would conflict with the purposes of including land within it. It would be inappropriate development in the Green Belt, which is harmful by definition. I therefore attach substantial weight to that harm as required by the Framework paragraph 153, albeit in this instance I find the harm to be moderate. It would also cause moderate harm to the character and appearance of the area, to which I give moderate weight. The development would therefore be in conflict with some development plan policies.
53. Against the totality of this harm, I have placed substantial weight on the proposal's significant benefit with respect to the contribution the BESS would make to mitigate climate change and help regulate electricity flows within the wider supply network, and minor weight on its biodiversity and economic benefits. I find these other considerations to be cumulatively sufficient such that they amount to the very special circumstances which clearly outweigh the harm to the Green Belt and any other harm, and thus justify the proposal in this instance. This also results in the proposal's compliance with the DMP Policy DM7.

Conclusion

54. In conclusion therefore, the proposed development would be in some conflict with the development plan, with respect to harm to the Green Belt and to the character and appearance of the area. However other material considerations, including the Framework and the very special circumstances cited in this case, indicate that permission should be granted. I therefore allow the appeal.

L N Hughes

Inspector

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans;
 - EW / 07 / 01A Location Plan
 - EW / 07 / 02 Existing Contour Plan and Red Line Boundary
 - EW / 07 / 03C General Layout
 - EW / 07 / 04A Drainage and Setting Out Plan
 - EW / 07 / 05 Sections M001 and M002
 - EW / 07 / 06A Fence, CCTV Mast and Control Room Details
 - EW / 07 / 07 Storage Unit and Office Plans and Elevations
 - EW / 07 / 08 Battery Storage Units, Transformer and Inverter
 - EW / 07 / 09 Substation Switch Gear Plan and Elevation.
- 3) No electricity shall be imported/exported from the development hereby permitted unless the local planning authority is notified of the commencement date of that use at least 14 days before that use occurring. The development hereby permitted shall be limited to a period of 50 years from the date of its first beneficial use.
- 4) No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The submitted details shall:
 - a) be in accordance with the "Outline SuDS Strategy" received 14 March 2024;
 - b) include hydraulic calculations, a detailed development layout, and civil engineering details including for all drainage and SuDS features and the outfall into the River Don;
 - c) include a full method statement and implementation timetable for the installation of that system;
 - d) include a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime; and
 - e) provide information about the measures taken to prevent pollution of the receiving groundwater and/or surface waters, including from water used for fire-fighting.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.
- 5) The development shall not be brought into use until a verification report evidencing the completion of the approved sustainable drainage system, including its installation methodology, evidence of depths and dimensions,

and supporting images from installation, has been submitted to and approved in writing by the local planning authority.

- 6) No development shall take place until a biodiversity gain plan has been submitted to and approved in writing by the local planning authority. The plan shall broadly accord with the measures set out in the submitted Taxus Ecology 'Ecological Impact Assessment for West Boldon, South Tyneside 21-042_R4' dated March 2024, and the Taxus Ecology 'Biodiversity Net Gain Report for West Boldon Battery Storage Site 21 042_R4' dated March 2024, and shall include details of:
 - a) the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
 - b) the pre-development biodiversity value of the onsite habitat; and
 - c) the post-development biodiversity value of the onsite habitat which must be at least a 10% increase relative to the pre-development biodiversity value of the onsite habitat.
- 7) No development shall take place until a habitat management and monitoring plan prepared in accordance with the approved Biodiversity Gain Plan has been submitted to and approved in writing by the Local Planning Authority. The habitat management and monitoring plan shall include details of:
 - a) the project's biodiversity baseline assessment against which BNG outcomes are assessed and monitored;
 - b) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the first beneficial use of the development;
 - c) the roles and responsibilities of those involved with implementing and monitoring the BNG design during the implementation and post-implementation stages; and
 - d) a monitoring plan to inform decisions about management, whether assessing progress towards the BNG targets is on track, and whether changes to management are required to achieve the targets;
 - e) provision for any approved landscaping that is removed, dies or becomes seriously diseased within the agreed timescales for achieving and maintaining the BNG targets to be replaced in the next planting season with landscaping of similar size and species to that which it replaces.

The development shall be carried out in accordance with the approved details. Notice in writing shall be given to the Council when the habitat creation and enhancement works as set out in the habitat management and monitoring plan have been completed in accordance with its approved timescales.
- 8) No development shall take place until an Invasive Non-Native Species survey and management plan have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The construction of the development shall be carried out in accordance with the approved details.

- 10) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall include details of construction working hours, the parking of site operative and visitor vehicles, accommodation for site operatives, loading and unloading of plant and materials, storage of plant and materials, the erection and maintenance of security hoarding, wheel washing facilities, measures to control the emission of dust and dirt, site security features, and delivery and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 11) No development shall take place until a noise assessment, including details of existing background noise levels, noise levels generated by the proposed plant/structures, and any proposed noise mitigation measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and retained as such thereafter.
- 12) No development shall take place until a risk reduction and mitigation strategy has been submitted to and approved in writing by the local planning authority. The strategy shall include details of:
 - a) how the impact of an incident will be minimised through the design, construction, installation, operation, and decommissioning phases;
 - b) a fire emergency response plan containing site specific information regarding the hazards, locations of hydrants, and electrical isolators, measures to be taken during an incident, and responses required post incident;
 - c) water supplies available for manual fire-fighting; and
 - d) A review/update of the strategy every 10 years.The development shall be carried out in accordance with the approved details.
- 13) No development above ground level shall take place until details of any external lighting have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 14) No development above ground level shall take place until full details of hard and soft landscape works and an implementation programme have been submitted to and approved in writing by the Local Planning Authority. The hard landscaping details shall include details of all means of enclosure and hard surfacing materials. The soft landscaping details shall include specification of species, tree and plant sizes, number and planting densities. The landscaping works shall be carried out in accordance with the approved details prior to the first beneficial use of the development, in accordance with the agreed implementation programme. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant specified in the approved details, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or shrub, or plant of the same species and size as that originally planted, shall be planted at the same place.
- 15) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the

buildings and structures hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 16) No electricity shall be imported/exported from the development hereby permitted until details of the range of security measures to be in place across the site and its setting shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 17) At least 11 months before the planning permission is due to expire, a decommissioning scheme to include the removal of all structures, equipment, and infrastructure relating to the development hereby permitted must be submitted to the local planning authority, which shall be approved in writing by the local planning authority before the expiry of the 50 year operation period.
- 18) Within 1 year of the expiry of the 50 year operation period, the site shall be decommissioned and restored in accordance with the approved decommissioning scheme.
- 19) In the event of the battery energy storage system ceasing to import and export electricity to the grid for a continuous period of 6 months, it will be deemed to have ceased to be required. The battery energy storage system and all ancillary equipment and structures shall be removed from the site within 1 year of the deemed cessation date and the site restored, in accordance with a decommissioning scheme that shall first have been submitted to and approved in writing by the local planning authority within 6 months of the deemed cessation date.

END OF SCHEDULE