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## Appeal Decisions

Inquiry held on 29 October - 5 November 2024

Site visit made on 1 November 2024

**by S Heywood BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> November 2024**

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### **Appeal A Ref: APP/W1525/W/24/3344509**

#### **Land South of Runwell Road, Runwell, Wickford, Essex, SS11 7QH**

- 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 Enso Green Holdings J Limited against the decision of Chelmsford City Council.
  - The application Ref is 23/00532/FUL.
  - The development proposed is the installation of a solar farm with battery storage and associated infrastructure.
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### **Appeal B Ref: APP/B1550/W/24/3344510**

#### **Land South of Runwell Road, Runwell, Wickford, Essex, SS11 7QH**

- 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 Enso Green Holdings J Limited against the decision of Rochford District Council.
  - The application Ref is 23/00285/FUL.
  - The development proposed is the installation of a solar farm with battery storage and associated infrastructure.
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## **Decisions**

### **Appeal A**

1. The appeal is allowed and planning permission is granted for the installation of a solar farm with battery storage and associated infrastructure on land south of Runwell Road, Wickford, SS11 7QH in accordance with the terms of the application, Ref 23/00532/FUL, subject to the conditions in the attached schedule.

### **Appeal B**

2. The appeal is allowed and planning permission is granted for the installation of a solar farm with battery storage and associated infrastructure on land south of Runwell Road, Wickford, SS11 7QH in accordance with the terms of the application, Ref 23/00285/FUL, subject to the conditions in the attached schedule.

## **Preliminary Matters**

3. The appeal site lies within two local authority boundaries. The solar farm, battery storage and majority of associated infrastructure lies within Chelmsford City Council's administrative area. The cable route lies primarily

within Rochford District Council's administrative area. Identical planning applications were made to both Councils. Rochford Council devolved their decision-making powers<sup>1</sup> to Chelmsford for the determination of the applications and appeals. As the applications and appeals are identical, my reasoning below refers to both appeals. However, I have made it clear where separate considerations apply to the solar farm and cable route.

4. The decision notice issued jointly from the two authorities only referred to application reference 23/00532/FUL (the Chelmsford application). Nevertheless, appeals have been submitted on both applications. Chelmsford Council and the appellants agreed that I should treat the appeals on the basis that the decision notice relates to both applications. This is the basis on which I have dealt with the appeals. Rochford Council confirmed that they would not be taking part in the appeals process but that they support the stance taken by Chelmsford.
5. The appeal site has a total site area of 66.06 hectares (ha). 44.87 ha of the development would lie within the fence lines of 8 field parcels. The development within the fence lines would comprise the solar panels, access tracks, CCTV / weather station poles and various container-like structures housing inverters, transformers, switchgear stations, a substation and control room. The development also includes a Battery Energy Storage System (BESS) which would lie within the fence line of the north easternmost field, together with its container compound.
6. The underground cable route comprises just over 7 ha of the total site area. It would run beneath the A132 Runwell Road to the A1245 Chelmsford Road and the A129 before running along the existing access track to the Rayleigh substation to the south.
7. The appellants clarified prior to the inquiry<sup>2</sup> that the development would have a generating capacity of 24.6MWdc which would produce enough renewable energy for the equivalent annual electrical needs of approximately 6,098 homes. The BESS would have an import and export capacity of up to 57MW which would operate alongside the solar farm. The development would be for a time-limited period of 40 years.

## **Main Issues**

8. The parties agree that the solar farm would be inappropriate development in the Green Belt, but the development for the cable route would not be classed as such. Accordingly, the main issues in both appeals are:
  - the impact of the solar farm development on the openness and purposes of the Green Belt;
  - the effect of the development on the landscape character and visual amenity of the area;
  - the impact on heritage assets;
  - the impact of the development in terms of flood risk and flood policy;

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<sup>1</sup> Under Section 101(1) of the Local Government Act 1972

<sup>2</sup> CD10.5

- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations to provide the very special circumstances necessary to justify the development.

## **Reasons**

### *Green Belt*

9. The parties agree that the cable route would constitute an engineering operation which would not cause harm to the openness or purposes of the Green Belt. I agree with this view. In accordance with paragraph 155 of the National Planning Policy Framework (the Framework) the works to provide the cable route would not therefore be inappropriate development. It would not therefore conflict with Rochford District Council Core Strategy (CS) Policy GB1 relating to Green Belt protection.
10. Turning to the solar farm itself, this would lie on open land currently in arable use. In considering the impact of a development on the openness of the Green Belt, Planning Practice Guidance (PPG) advises that relevant factors may include the spatial and visual aspects of the development, its duration and remediability, and the degree of activity likely to be generated.
11. The development would introduce man-made structures on a currently open agricultural landscape. The appeal site is large at around 66 ha (almost 45 ha of which would be occupied by the built development). But it is not amongst the largest of solar farm developments, even amongst those which would be considered under the Town and Country Planning Act 1990 (as amended). The introduction of solar panels and associated structures would therefore result in a moderate degree of harm to the spatial aspect of openness.
12. As addressed in further detail below, the site is visually contained and there are limited vantage points beyond the site boundaries where the development would be visible. Nevertheless, where they are visible, the panels and associated structures would cause some harm to the visual aspects of openness.
13. The proposal is for a limited period of 40 years, but this is a long time and the harm to the Green Belt would persist for that period. The parties accept that after the construction period, the amount of activity generated by the development would be minimal, but this is a neutral factor in this case.
14. Overall, the development would cause a moderate degree of harm to the openness of the Green Belt.
15. I turn now to the purposes of including land in the Green Belt as set out at paragraph 143 of the Framework. The proposal would introduce a large area of development on currently open, rural land. As such, I agree with the parties that it would not assist in safeguarding the countryside from encroachment. It would therefore conflict with this purpose and cause a moderate degree of harm in this respect.
16. 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. In accordance with paragraph 152 of the Framework inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Decision makers should ensure that substantial weight is given to any harm to the Green Belt. The Framework also states 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.

17. In Green Belt terms, the development would cause harm by reason of inappropriateness, harm to openness and to one of the purposes.
18. The solar farm would conflict with Chelmsford Local Plan (LP) Policies S11, DM6 and DM10 relating to new development in the Green Belt. S11 and DM6 generally follow national policy in requiring very special circumstances to be demonstrated for inappropriate development in the Green Belt. DM10 advises that engineering operations will be permitted as long as they preserve openness and do not conflict with the purposes of including land in the Green Belt. The Solar Farm Development Supplementary Planning Document (SPD) reiterates government policy that renewable energy projects will comprise inappropriate development in the Green Belt and that very special circumstances must be demonstrated. I go on to address any other harms that the development may cause, before considering the other factors in favour of the proposal and whether very special circumstances exist.

#### *Landscape and visual impacts*

19. The proposed cable route would not cause harm to the landscape character or appearance of the area. There is no dispute between the parties on this point. The proposal would not therefore conflict with Policy ENV6 of the Rochford CS which requires large scale renewable energy projects to have no significant adverse visual impacts. Neither would it conflict with Policy DM26 of the Development Management Plan (DMP) for Rochford District. I therefore go on to consider the impacts of the proposed solar farm development itself.
20. The site lies within the F11 South Hanningfield Wooded Farmland character area in the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments (2006) (LCA). Key characteristics of the area include undulating mature wooded farmland, medium to large-scale arable fields with hedged and treed field boundaries and views to wooded horizons. These aspects are characteristic of the appeal site which includes gently undulating arable fields of medium scale. Views are gained of mature hedgerows and trees along horizons. Notable detractors in the landscape are the large pylons and overhead powerlines crossing the site to the south, both within and beyond the site boundary, and beyond the boundary to the west.
21. The A130, running along the eastern site boundary, also creates visual and noise intrusion which detracts from the landscape character of the site. Whilst noise from the surrounding roads becomes less dominant towards the central and western parts of the site, it is still noticeable. Consequently, the site does not have the tranquil character of more remote areas of countryside.
22. The open arable fields would be replaced with solar panels and other infrastructure. The panels would be horizontal structures with a dark and somewhat reflective appearance. They would be uncharacteristic in form and materials when compared to the open, arable character of the site. However, the structures would sit on top of the land and the undulating nature of the fields would still be discernible. The field pattern created by the development

would alter but would remain at a medium scale. Mature hedgerows and trees on horizons would remain and would be supplemented by the development's landscaping proposals.

23. The site is crossed by a public footpath running east to west approximately along the centre of the site. Views can be gained from various points along the footpath of All Saints' Church tower in Rettendon, which sits on higher land to the north east of the site. The footpath is not orientated towards the church tower and this moderates the importance of the views in the overall character of the site. Nonetheless, views of the church gained across the open fields of the site are attractive and assist footpath users in orientating themselves within their surroundings. These views would be lost from the footpath as a result of the development and would cause some harm to the character of the site.
24. The LCA notes, in relation to the overall character of the F11 area, that views of church towers within villages are visible landmarks from the surrounding landscape. But it does not suggest that every view of a church tower should be protected, nor does it specifically identify views of All Saint's Church, unlike the specified views of other church towers in other character areas within the LCA. Beyond the site boundary, views of the church tower would remain unchanged.
25. It is agreed that, due to the site's topography and the strong containment provided by existing landscape features, the appeal site has a restricted visual envelope beyond the site boundary. The loss of the open agricultural fields would alter the local landscape character. However, the key characteristics of the F11 area would remain unchanged and the Council accept that there would be limited visibility of the discordant elements of the development within the wider landscape.
26. Taking the above factors into account, the development would have a 'Moderate Adverse' effect on landscape character within the site at both years 1 and 15 using the Council's scale of effects<sup>3</sup>. This is because it would be out of scale or at odds with and would adversely impact on the landscape, it would not be possible to fully mitigate the impacts, and the development would introduce new uncharacteristic elements into the landscape (the Council's criteria). This equates to the appellants' description of a 'Moderate Adverse' impact. The factors set out above which would reduce the effect of the development would ensure that the development would not fall within the Council's High Adverse category of effects.
27. Beyond the site boundary, using the Council's scale of effects, the impacts on the landscape character would be Slight Adverse to Moderate Adverse at year 1, reducing to Slight Adverse at year 15. This is because the development would impact on certain views into and across the area and cannot be completely mitigated because of the nature of the proposal (criteria for Slight Adverse). But it would also be at odds with the landscape and would introduce some new uncharacteristic elements (Moderate Adverse criteria). I do not agree that the proposal would fall into the appellants' classification of 'No Change' which equates (in the appellants' scale of effects<sup>4</sup>) to *"the proposed*

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<sup>3</sup> Table 6 Appendix D to Mr Etchell's Proof of Evidence.

<sup>4</sup> Table 12, Appendix 17 to Mr Cook's Proof of Evidence

*changes would not be visible and there would be no change to landscape character”, for the reasons set out above.*

28. I turn now to consider the visual impact of the development on receptors, in other words those who would see the development. These would primarily be users of the public footpath crossing the site and the residents of properties along the old alignment of Runwell Road to the north west. The site can also be glimpsed from parts of the open space to the south. More distant views of the site would be gained from the upper floors of some of the houses in Wickford to the south west. Views are also gained from parts of Runwell Road, from the road bridge crossing the A130 and looking across Hawk Hill Roundabout to the east of the site. Vegetation along the eastern side of the A130 generally prevents views of the site from further east. The railway line running diagonally along the southern boundary would also afford some glimpses of the site through the southern hedgerow, although these views would be very limited due to the height, depth and density of that hedge.
29. There was criticism of the viewpoint photography submitted in support of the applications and appeals as winter views were not included. However, I am satisfied that I can use my own experience and judgement to adequately assess the extent of the likely views during the winter months.
30. As it crosses the site the footpath would be sited within a 17 – 19 metre wide corridor with hedgerow and tree planting proposed on either side of the corridor. Short distance views of the solar farm would be gained from the footpath crossing the site. Walkers and other recreational users, who are agreed to have a high sensitivity to adverse impacts, would see the panels, fencing, CCTV cameras, access tracks and inverters when using the route.
31. In viewpoints 1 and 2 (in the LVIA<sup>5</sup>), which are located along the footpath to the east of the access track to Southlands Farm, the development would be seen on either side of the footpath. The current views of open fields would alter to short distance views of fencing and solar panels in the short term. In the medium to long term, views would be of the proposed native mixed hedgerows but with an awareness of the solar panels sited beyond these.
32. It was agreed that there is little between the parties in terms of categorising the visual effects of the development from the footpath. In the early years of the development, the proposal would have a High Adverse impact, equating to a significant deterioration in the view on the Council’s scale (equivalent to the appellants’ Major categorisation). This would reduce over time as the landscaping develops. However, the landscaping would not entirely screen the development from viewpoints 1 and 2, particularly during the winter months. I therefore agree with the Council that a Moderate to High Adverse effect would remain over time from these viewpoints, as the loss of the open view would persist.
33. In relation to viewpoint 3, along the footpath to the west of the access to Southlands Farm (field 1 on the appellants’ Field Number Plan), the development would be sited to the south of the footpath and the northern field would be open. In the early years, panels, fencing and CCTV posts would be visible to the south of the footpath. Partial views of the panels in the fields to the east of the access track would also be visible when looking towards the

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<sup>5</sup> The Landscape and Visual Impact Assessment (October 2022) (CD1.34)



east. I agree with the parties that the proposal would have a Major / High Adverse effect in the early years.

34. However, land to the south of the footpath (in field 1) slopes downwards away from the viewer and a woodland buffer is proposed to the south of the footpath, between the footpath and the proposed panels and fencing. Supplementary hedgerow planting is also proposed to the east of the access track. This planting would mature over time and would effectively screen views of the development to the south and east. The visual effect would therefore reduce to become a Moderate effect over time.
35. From viewpoint 4, beyond the western site boundary, the footpath passes between paddocks enclosed with low post and rail fencing. Looking east, the site is well screened by a tall, dense hedgerow and trees sited along the western site boundary. Only minor glimpsed views of the development would be possible from this location, even during the winter, and the impact would be so slight that it would not cause visual harm to users of the footpath. The impact would not meet the Council's criterion for a Moderate effect and I agree with the appellants that the effect would be Negligible. There is no disagreement that the development would not be visible from points further to the west.
36. The Council pointed to the fact that the footpath is part of two longer distance routes known as the Chompsfod Butterfly Flit and the Wickford and Battlesbridge Circular Walk. The information I have about the importance of these routes is limited, but they appear to be local routes rather than being part of longer distance or nationally important routes.
37. To the south east of the site, the footpath travels beneath one of the pylons, under the A130 and A1245 and it crosses the railway line. In the vicinity of the site therefore the presence of infrastructure already diminishes the attractiveness of the route. In any case, the sensitivity of users of the footpath is agreed to be at the highest level and the information regarding these named routes does not raise their sensitivity any higher nor does it add to the harm I have set out above.
38. Viewpoints 7 and 8 in the LVIA are from the open space to the south of the site. Views from this direction are limited by the wide corridor of trees and shrubs aligning the River Crouch. Only limited glimpses of the development would be gained in gaps through the vegetation. Greater visibility may be possible during the winter months but even then, the density of branch structure would be likely to prevent any significant views. The effect from here would be Slight Adverse (on the Council's scale) where views are possible.
39. From Runwell Road, the site is glimpsed in gaps through the boundary hedge, including at the access point. The Council consider that the visual effects of the development would be Slight Adverse for motorised users and Slight to Moderate Adverse for pedestrians. Runwell Road is a busy road with fast moving traffic and narrow pavements. The boundary hedge is thick and in some places it is banked above the footpath which further restricts views into the site. Whilst greater visibility into the site would be likely in the winter months, even then, views into the site would be limited and the solar panels would not be particularly noticeable in most views. The development would

therefore cause a limited deterioration in the view for both pedestrians and motorists and the effect would be Slight (on the Council's scale of effects).

40. From the road bridge across the A130, and to a lesser extent from the A1245 Hawk Hill Roundabout, partial views of the easternmost fields can be gained. The dark, somewhat reflective surfaces and linear nature of the solar panels would be visible on the parts of the fields not screened by boundary vegetation. Trees within the fields and within boundary hedges would be retained and would remain as features which would break up the visual expanse of the panels within the fields.
41. The environment is dominated by busy traffic movements in these locations, and the unfriendly pedestrian environment is unlikely to attract significant pedestrian movements for leisure purposes. In any event, the roads, traffic barriers, lighting columns, signage and, in the view from the road bridge, the electricity pylons, are already significant detractors in these views. The visual effect of the proposal would therefore be very limited from these locations.
42. I turn now to consider the visual impact from residential properties. The properties on the south side of Runwell Road currently have views from their rear windows and gardens across a small paddock, then over open fields to the south and east, towards higher land in the distance.
43. The proposed solar panels would not be located on the field immediately to the south or east of these properties. The paddock and open field would therefore remain between the properties and the solar farm development. However, in the early years, residents would be able to see the panels sited in field 1, to the south of the footpath, in the medium distance from first floor windows.
44. However, because the land slopes downwards towards the south and away from the properties, only the panels sited at the northern end of field 1, closest to the footpath, would be visible. The current views of the mature trees along the river to the south would remain over the tops of the panels. Furthermore, the proposed development would not prevent views across the landscape towards the higher land in the distance. Once the proposed woodland buffer to the south of the footpath has matured, views of the development within field 1 would be largely screened from these properties.
45. Towards the east, the development would be visible on rising land beyond the existing boundary trees and hedges and there would be greater visibility in the winter months. Current views of agricultural fields would be replaced by the dark, somewhat reflective surface of the solar farm. Again, views of the existing field in the foreground would remain, as would views of existing hedges, trees and higher land on the horizon.
46. Overall, the proposal would cause some harm to the views from these properties in the short term. In the longer term, once the proposed planting has matured, the visual effect would diminish although views of the panels on fields to the east would remain and would not be entirely screened by boundary planting.
47. Views would be gained of the development from first floor windows of some of the properties in Wickford. However, in these views the panels would be seen as a darker surface sitting within the landscape and broken up with existing



and proposed trees and hedgerows. Any visual effect from these properties would be limited.

48. It is notable that the only longer distance view of the site which the Council drew to my attention is that from All Saint's Church and from the footpath running south from the church towards the A132. At such a distance, the development would be seen as no more than a change in the colour of the surface of the land. It would be visible across the busy roads which are the dominating features in the view. The Council accept that in more distant views such as these, the low height of the development, the intervening hedges and trees and distance of the viewer would limit the change that would be experienced.
49. Although a pedestrian or motorist may get views from different locations when travelling through the area, in this case, this would not increase the visual harm caused by the proposal. There are no viewpoints from which the site can be seen in its entirety and, from all but close proximity views from the footpath crossing the site, the intervening vegetation and the detracting features of surrounding roads and pylons limit the harm that would be caused.
50. In conclusion, the proposed development would cause a Moderate Adverse effect on the landscape character of the site and a Slight to Moderate Adverse effect beyond the site boundary. The development would cause a High Adverse visual impact in close views from the footpath. However, the further away the viewer travels from the site, the more the development would recede and the visual impact would therefore diminish. It would also diminish over time as proposed landscaping matures. The proposal would also cause some visual harm when seen from properties on Runwell Road, particularly in the short term.
51. The site is covered by a Tree Preservation Order (TPO). The group of trees annotated as G1 would be retained within Field 6. It was agreed between the parties that the remainder of the trees within the TPO have since been removed, probably as part of the development of the A130 / A132 road improvements. The development would cause no harm in respect of remaining trees covered by the TPO.
52. On the basis of the above, the development would cause a moderate degree of harm to the landscape character and visual amenity of the area. It would be contrary to Policies S1 and DM23 of the Chelmsford LP which require development to respect the character and appearance of landscapes and the surrounding area, amongst other matters. It would also conflict with Policy DM19 iv. relating to the visual impact of renewable and low carbon energy, which requires that development does not have an unacceptable visual impact which would be harmful to the character of the area.
53. The Solar Farm Development SPD supports the principle of solar energy development provided the environmental impacts can be managed. In relation to landscape impact, proposals should avoid areas of medium-high landscape quality and / or sensitivity unless the negative impacts can be adequately mitigated. The proposal would also conflict with the advice in this document.

*The impact of the development on heritage assets*

54. No heritage impacts of the cable route have been drawn to my attention. The remainder of this section therefore deals with the impacts of the solar farm.
55. Policy DM13 of the Chelmsford LP requires that Listed Buildings should be preserved and development within their setting should not adversely affect their significance. The policy generally follows the Framework in requiring less than substantial harm to a designated heritage asset to be balanced against the public benefits arising from the proposed development. Policy DM19 ii. requires development to avoid or minimise harm to the historic environment and this is reflected in the SPD.
56. The parties agree that less than substantial harm would occur to the significance of the Grade I listed Church of All Saints in Rettendon, through development within its setting.
57. The church was built between the 13<sup>th</sup> and 15<sup>th</sup> centuries. Its ragstone tower has a castellated parapet. The church stands on elevated ground and the tower is a conspicuous landmark in the surrounding area. The listing summarises its importance as a *"fine example of a modest English rural parish church with a high survival of medieval fabric, including the tower"*.
58. The setting of the church includes its immediate surroundings including the graveyard and surrounding agricultural land. The wider rural setting includes the appeal site, albeit at a distance of some 950m to the south west. The rural setting and its hilltop location contributes to the significance of the rural parish church.
59. Parts of the appeal site are visible from the church and nearby footpath. But views of the proposed solar farm would form a small part of the surrounding rural landscape. At the distance involved, the development would be seen as a change in the colour of the surface of the site. The view would alter from fields currently in agricultural use to a man-made surface.
60. The setting of the church has already been altered by modern development to the south, by the pylons crossing the landscape and the A130 which is a noticeable feature from the church both in terms of the visible traffic movements and the road noise. Nevertheless, the development would cause some minor harm to the wider rural setting of the church.
61. As set out above, the development would block current views of the church tower from the footpath crossing the site. In this respect it would impinge upon views of the elevated church tower from the surrounding rural area. There are no wider views across the site, from beyond its boundaries, which would be obstructed by the proposed development and views of the church tower from Runwell Road would remain.
62. For the above reasons, the development would cause a low level of less than substantial harm to the Grade I listed Church of All Saints through development within its setting.
63. There are also non-designated heritage assets close to the site. The Toby Carvery building lies on Runwell Road opposite the site and three World War II pillboxes lie within and close to the site boundaries. Policy DM14 relates to non-designated heritage assets. It requires that the significance of such

assets should be retained. In line with the Framework, the policy states that harm should be justified, balancing the level of harm and significance of the asset, and that harm should be minimised.

64. The Toby Carvery is a mid-19<sup>th</sup> century small country house. Built of red brick with red tiled roof, it has three large gables facing west and a two storey canted bay window facing south towards Runwell Road and the appeal site opposite. Glimpsed views of the site would be possible from the first floor windows. There is very limited visibility of the site from ground floor level.
65. The significance of the asset, described in the Register of buildings of local interest, derives from its historic, architectural and townscape interest. The appellants' heritage expert's written evidence demonstrates that there is no historic connection between the appeal site and the building. Nevertheless, the site contributes to a small degree to the rural setting of the building. The contribution that the site makes to the setting has been diminished by the widening of Runwell Road over time. Notwithstanding this, the development would cause a very small degree of harm to the significance of this non-designated heritage asset by causing a small degree of erosion to its rural setting.
66. The World War II pillboxes are hexagonal features built of concrete and brick and are part of a series of features forming the General Headquarters (GHQ) defence line constructed in 1940 to slow a possible German invasion.
67. The easternmost pillbox is located to the south of the railway line opposite the site boundary. The northern pillbox lies within the site, enclosed by existing vegetation along the boundary between fields 6 and 7. The westernmost pillbox lies within the hedgerow on the southern boundary of the site.
68. There is very little intervisibility between the pillboxes due to intervening vegetation and topography. Their significance is derived from their architectural form and historical association with the anti-tank ditch of the GHQ line and the railway. Their rural setting contributes to their significance, but to a lesser degree than their historical and architectural interest.
69. The proposed development would not disturb the fabric of the pillboxes and their historic and architectural significance would remain. Their rural setting would be eroded and this would cause a low level of harm to their significance.
70. I conclude that the development would cause a low level of less than substantial harm to the Grade I listed Church of All Saints, a very small degree of harm to the significance of the Toby Carvery and a low level of harm to the World War II pillboxes. The harm to these heritage assets would be temporary and reversible. I address the approach of balancing the harm against the public benefits, in accordance with Policies DM13, DM14 and the Framework, in the overall balance below. However, for clarity at this stage, I find (below) that the public benefits outweigh the less than substantial harm to the listed building and the harm to the non-designated heritage assets. I note that this is also the conclusion reached by the Council.

#### *Flood risk and flood policy*

71. No flooding impacts of the cable route have been drawn to my attention. The remainder of this section therefore deals with the impacts of the solar farm.

72. During the consideration of the applications the Council did not raise any concerns about the flood risk implications of the development and there is no reason for refusal relating to this issue. Whilst the Council raised concerns during the appeal regarding the application of the Sequential Test, they confirmed at the inquiry that they do not suggest that the appeal should be dismissed on flood risk grounds. Neither do they claim that there would be a conflict with Policy DM18 relating to flood risk.
73. The majority of the appeal site is in Flood Zone 1 (with a low risk of flooding). Minor areas lie in Flood Zones 2 and 3, along the River Crouch to the south and adjacent to the watercourse running north-south. Small areas of the site, generally associated with the watercourse, are at risk of surface water flooding but there has been no history of flooding on the site. Furthermore, there would be no vulnerable infrastructure located in the flood risk areas. Neither the Environment Agency nor the Lead Local Flood Authority raised objections to the proposed scheme. These matters are agreed between the parties.
74. Paragraph 168 of the Framework sets out the Sequential Test for flooding. Its aim is to steer development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The PPG states that 'reasonably available sites' are those in a suitable location for the type of development with a *"reasonable prospect that the site is available to be developed at the point in time envisaged for the development"*.
75. The Inspector in the Thoroton appeal decision<sup>6</sup> in considering what constitutes 'reasonably available sites' concluded that the relevant 'point in time envisaged' for any particular solar development should be *"as soon as possible given the urgent need for new electricity infrastructure and solar being a key part of the government's strategy for low-cost decarbonisation of the energy sector"* as set out in EN-1 paragraph 3.3.58 and EN-3 paragraph 2.10.9<sup>7</sup>. I agree with that view.
76. The appellants have an agreement to connect directly to the National Grid at the Rayleigh substation. The appellants' evidence, which is not disputed, is that the agreement requires the connection to be taken up by 2027 or financial penalties apply. There is currently a significant 'queue' of renewable energy generation schemes waiting years for a new connection. Whilst efforts are underway to bring waiting times down, the latest evidence, agreed with the Council, is that there is an average delay of over five years for projects applying to connect to the transmission network.
77. It is therefore important, to meet the urgent need for solar energy, for capacity to be taken up where it is available and the prospect of an early connection for the appeal scheme is an important factor in its favour.
78. EN-3 sets out that *"the capacity of the local grid network to accept the likely output from a solar farm is critical to the technical and commercial feasibility of a development proposal"*. Whilst other points of connection may have been available elsewhere, the Council do not suggest that the Sequential Test

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<sup>6</sup> Appeal Ref: APP/P3040/W/23/3330045 (CD6.37)

<sup>7</sup> Overarching National Policy Statement for Energy (EN-1), November 2023 and National Policy Statement for Renewable Energy Infrastructure (EN-3), November 2023

should be applied on a nationwide basis. The appellants' search for reasonable alternative sites therefore centred on the agreed connection point at the Rayleigh substation. For the above reasons, I consider this to have been a reasonable starting point.

79. The appellants' Alternative Sites Assessment (ASA) applied a 5km radius of the substation to their search. Due to drawbacks of longer cable routes<sup>8</sup> I am satisfied that the 5km distance is reasonable and the Council do not dispute this.
80. Further to the clarification provided to the inquiry, the capacity of the development is confirmed to be 24.6MW. At the inquiry the Council criticised the appellants' search on the basis that it focussed on sites with a larger capacity of 49.9MW. However, there is no evidence to suggest that smaller sites would be available within the search radius. The Council have not allocated any sites for renewable energy developments and does not suggest that any smaller sites may be available. In any case, the time needed to assemble any such sites and obtain consent, particularly as such sites would also likely be in the Green Belt, risks the expiry of the grid connection offer. The ASA demonstrates that within the identified locations where land could be available, there are no sites at a lower risk of flooding to the appeal site. The Council do not dispute this.
81. The Council accept that if the Rayleigh substation is deemed to be the correct starting point, then they consider the Sequential Test to have been met. Having considered the information on alternative sites in the ASA, I agree that there is no conflict with the Sequential Test in this case.
82. Even if I had found otherwise, the Council's evidence is that the claimed shortcomings in the appellants' search for alternative sites should attract only limited weight against the proposal. Their primary concern is that the lack of alternative sites cannot be claimed in favour of the scheme. I address this matter separately later in this decision.
83. The development would be safe for its lifetime and it would not increase the risk of flooding on or off-site. The scheme could be designed and constructed to remain operational and safe in times of flood. These are matters which could be dealt with through the imposition of a planning condition requiring adherence to the submitted Flood Risk Assessment and Drainage Strategy. Renewable energy from the development would provide wider sustainability benefits which would outweigh the flood risk. The proposed development complies with the Exception Test. The Council do not dispute any of these matters.
84. On the basis of the above, I conclude that there is no conflict with Policy DM18 or the Framework in relation to flood risk. There are no reasons to conclude that flood risk matters weigh against the development.

*Other Matters (both appeals)*

85. Around 26.5% of the land is classed as Best and Most Versatile agricultural land (BMV) with the majority of the site falling within Grade 3b (not BMV). There is no evidence that taking this proportion of land out of production for a

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<sup>8</sup> Set out at paragraph 4.11 of the appellants' Flood Risk Sequential and Exception Tests Assessment (CD9.13)

40 year duration would have a significant negative impact on food security and Natural England have not raised any objections in this regard.

86. There is no evidence to suggest that the proposal would result in adverse health impacts for nearby residents. The development would not cause undue noise impacts, particularly having regard to the background road noise. After the temporary construction period, traffic movements would be light such that there would be no highway safety impacts. In relation to the possibility of fire hazard from the proposed battery storage, separate regimes operate to regulate the safe operation of such installations. There is nothing to suggest that these will not operate effectively. A condition is also imposed to ensure the implementation of a Battery Safety Management Plan. The site would be fenced and monitored by CCTV systems linked to 24 hour monitoring. The Council's Environmental Health Officers have not raised concerns about the scheme and Essex County Fire and Rescue service are satisfied with the proposal subject to the implementation of an emergency response plan.
87. The Glint and Glare Assessment submitted with the applications concluded that there would be no possibility of the solar panels causing glint and glare at nearby residential properties, on surrounding roads, the railway line or for aviation traffic.
88. Concerns have been raised in relation to the recyclability of solar panels, but I have no evidence to suggest that this should be a significant factor in my determination. There is no national or local policy requirement for solar developments to consider brownfield or rooftop locations before greenfield land and it is likely that both ground mounted and rooftop panels will be needed to meet the urgent need for renewable energy. The planning system operates in the public interest and the impact on property prices is not a planning matter.
89. None of the above issues add weight against the proposed development.

*Other Considerations (both appeals)*

Renewable energy

90. The Climate Change Act 2008, as amended, sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100% to reach net zero by 2050. In 2021 the Government introduced the sixth Carbon Budget which enshrines in law a new target to cut emissions by 78% by 2035 compared to 1990 levels.
91. There have been a number of Government policy statements and commitments produced in relation to energy and climate change in recent years. These include the Net Zero Strategy: Build Back Greener (2021), which sets an ambition for the UK to be powered entirely by clean energy by 2035, subject to security of supply. This is against the background of a predicted 40-60% increase in demand.
92. There is also a need to reduce reliance on imported fossil fuels in the interests of energy security and to ensure less volatile energy prices for UK consumers. The British Energy Security Strategy (2022) sets out the strategy to achieve this. It notes the expectation of increasing solar power fivefold by 2035. It also sets out the support for solar co-located with other functions such as battery storage to maximise the efficiency of land use.



93. Powering Up Britain was published in March 2023. This recognises that moving to a system that relies primarily on low carbon technologies is crucial to deliver cheaper, cleaner, domestic energy. It recognises that both ground mounted and rooftop solar will need to be maximised to achieve this target. The accompanying Energy Security Plan sets out that low-cost renewable generation will be the foundation of the electricity system and will play a key role in delivering amongst the cheapest wholesale electricity in Europe.
94. National Policy Statements (NPS) for the delivery of major energy infrastructure may be material considerations in the determination of planning proposals<sup>9</sup>. Overarching NPS for Energy (EN-1) reiterates the aims and goals set out in the above documents. NPS for Renewable Energy Infrastructure (EN-3) specifically refers to solar PV generation and reiterates the government's commitment to sustained growth in order to meet net zero by 2050. Solar is a key part of the Government's strategy for low-cost decarbonisation of the energy sector. It also has an important role in delivering the Government's goals for greater energy independence.
95. Chelmsford LP Policy DM19 is supportive of renewable and low carbon energy development subject to specific criteria regarding its impact. Rochford CS Policy ENV6 also supports large scale renewable energy projects where they are not located in designated areas (none of which apply in this case) and there are no significant adverse visual impacts.
96. The Council have not allocated any sites for renewable energy schemes. The SPD includes locational principles to guide the consideration of suitable sites. Paragraph 8.2 requires solar farms in the Green Belt to demonstrate very special circumstances to justify approval.
97. For renewable energy projects in the Green Belt, paragraph 156 of the Framework states that *"very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources"*. Paragraph 157 of the Framework sets out that the planning system should *"support renewable and low carbon energy and associated infrastructure."* Paragraph 163 sets out that Local Planning Authorities should *"not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions."* It also states that Local Planning Authorities should *"approve the application if its impacts are (or can be made) acceptable."*
98. The parties agree that substantial weight should be given to the generation of renewable energy in this case, and I agree. Substantial weight should also be given to the contribution the development would make to ensuring low cost and secure energy.
99. Chelmsford Council declared a Climate and Ecological Emergency in July 2019. The Solar Farm Development SPD recognises that solar energy can help meet targets for reducing carbon emissions, reduce reliance on fossil fuels and provide local energy security. Rochford declared a Climate Emergency in June 2023. The contribution of the development towards mitigating the climate emergencies also attracts significant weight in favour of the appeal, as agreed between the parties.

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<sup>9</sup> EN-1 paragraph 1.2.1

### Other benefits

100. The proposed development would include BESS which would ensure that energy generated during times of low demand can be released back to the grid at times of peak demand. It is supported by the Energy Security Strategy and EN-3. The parties agree, and I concur, that significant weight in favour of the scheme is derived from its co-location with the BESS facility.
101. As stated earlier a grid connection offer has been secured for this development. This will ensure that the development can quickly make a significant contribution towards the legally binding net zero targets. The parties agree that this should attract moderate weight in favour of the scheme but, given the urgency of the need and the difficulties experienced in obtaining grid connections currently, I consider this to be a factor which attracts significant weight in its favour.
102. The development would use a tracking system with bi-facial panels which can deliver greater solar efficiency by tracking the sun as it moves across the site. I understand that not all sites are suitable for such a system. I give moderate weight in favour of the scheme to the use of this system.
103. The appellants suggest that moderate weight should be given to good design in this case. However, I consider that good design is a matter which is to be expected in developments and this does not attract additional weight in favour of the development.
104. The appellants also suggest that significant weight should be given to the lack of alternative sites. As set out above, the ASA considered locations capable of accommodating a solar facility of up to 49.9MW, whereas information to the inquiry clarified that the development would generate 24.6MW. The appellants' witness confirmed at the inquiry that there may have been smaller sites with a lower connection of 24.6MW which were not assessed. There is no national or local policy requirement for alternative sites to be assessed before deciding upon the location of a solar farm. Nonetheless, on the circumstances of this case, the matter does not attract weight for or against the development.
105. In terms of biodiversity, the proposal would include substantial planting of trees, woodland belts and hedgerows. It would also take arable land out of cultivation and use it for the grazing of sheep. This would be likely to have long-term benefits to soil regeneration. There would be a net gain in biodiversity of 137.96% for habitat units and 85.1% for hedgerow units. These benefits attract significant weight in favour of the scheme.
106. The parties agree that limited weight in favour of the scheme should also be given to the farm diversification benefits and moderate weight to the economic benefits. I agree with this assessment.

### *Overall balance including heritage balance*

107. I have set out above that the solar farm would cause moderate harm to the openness of the Green Belt and harm to one of the purposes of including land in the Green Belt. Together with the harm by reason of inappropriateness, I give substantial weight to this Green Belt harm. The solar farm would cause a moderate degree of harm to the landscape character and visual amenity of the

area and would conflict with Chelmsford LP Policies S1, DM23, DM19 iv. and the SPD. I give moderate weight to this harm.

108. In terms of heritage, I have concluded above that the solar farm would cause less than substantial harm to the Grade I listed Church of All Saints. Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special regard to the desirability of preserving listed buildings, their settings, and any architectural features they may possess. The Framework provides that great weight should be given to the conservation of designated assets, the more important the asset, the greater the weight should be. Considerable importance and weight should be given to this harm.
109. Paragraph 209 of the Framework sets out that, in relation to non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm and the significance of the asset.
110. In this case I consider that the low level of less than substantial harm I have identified to the significance of the designated heritage asset and the limited harm to the non-designated heritage assets is outweighed by the substantial public benefits that would be attributable to the renewable energy generated by the proposed solar farm and the other benefits set out above. I note that the Council agree, and there was no reason for refusal on heritage grounds. Accordingly, the proposal does not conflict with Chelmsford LP heritage Policies DM13 and DM14. In terms of DM19 ii. and the SPD, I conclude that the harm has been minimised and there would be no conflict. Nevertheless, this harm adds to the Green Belt and landscape harm identified above.
111. On the other hand, there is an urgent need for renewable energy to mitigate the climate emergency, achieve net zero targets and enable energy security and lower energy bills. Together with the other benefits set out above, these matters weigh very substantially in favour of the development.
112. Due to their very nature, most solar developments will cause some level of harm in the countryside and when they are near to residential properties and heritage assets. In addition, many solar farm sites are crossed or bounded by footpaths. There will be sites which cannot come forward for solar development because the level of harm caused would be too great and would not be outweighed by the benefits. In this case, however, the harm caused would be moderated to a large degree by the contained nature of the site and its proximity to major roads and pylons. The development would be capable of making a material and early contribution to the objective of achieving decarbonisation of energy production. It is important that sites such as this are brought forward as soon as possible to meet the pressing need for renewable energy generation.
113. I conclude that the other considerations in this case are of sufficient weight to clearly outweigh the harm to the Green Belt and other harms identified. Very special circumstances to justify the solar farm development therefore exist. The development would therefore comply with the Green Belt policies set out above. It would also comply with the Framework in this regard, noting that paragraph 156 states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

114. Conflict has been identified with the landscape and visual amenity policies identified above. However, these policies should not be determinative in this case. The other material considerations set out above lead me to depart from the development plan and conclude that the development should be allowed.
115. I note that this was not the conclusion reached by the Inspector in the Nottinghamshire appeal decision<sup>10</sup>. That Inspector noted, at paragraph 95, that the case before her was "*quite finely balanced*". I have given more weight to some of the benefits in this scheme, particularly to the energy security aspects, the grid connection offer and the co-location of the BESS. My judgement is based on the evidence before me, including other relevant appeal decisions in the Core Documents. Several other appeal decisions have been drawn to my attention and I have had regard to these as material considerations. However, they vary in size and geographical location and different considerations will have applied in those cases. The judgement of the Inspectors in those cases will also have relied on the evidence before them. None of these decisions leads me to alter the conclusions I have set out above.
116. There are no matters that weigh against that part of the development which constitutes the underground cable route. That part of the development is acceptable in planning terms and complies with relevant policies in the Rochford and Chelmsford Development Plans.

### **Conditions for Appeals A and B**

117. The parties discussed and agreed the conditions during the inquiry. I have amended the wording where necessary having regard to the tests set out in paragraph 56 of the Framework and to assist with clarity.
118. I have removed the specific requirements for height and details of temporary fencing from condition 14. As discussed at the inquiry, the condition requires a scheme to be agreed for fencing only where required to avoid glint and glare to highway users. I note that the glint and glare assessment submitted with the applications concluded that this would not cause any harmful impact to surrounding roads. The condition does not therefore need to specify heights and continuity as this will be determined by the submitted scheme.
119. For clarity and to avoid contradicting conditions, I have also removed the time limit for notification of export of electricity from agreed condition 3 as it conflicted with that in agreed condition 5.
120. The standard time limit, plans condition and notification of first export of electricity (in condition 5) are necessary to provide certainty. For the avoidance of doubt, conditions are imposed to clarify the time limited nature of the proposal for 40 years and requiring a decommissioning scheme in the interests of public amenity.
121. A Cable Route Method Statement is required to ensure satisfactory impacts on the environment, highway users and public amenity. A condition relating to archaeology is necessary to ensure the protection of any such heritage assets.
122. In the interests of biodiversity and local / visual amenity, the following conditions are required: the submission of a Construction Environmental

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<sup>10</sup> APP/P3040/W/23/3329235, Appendix 3 to Alison Hutchinson's Proof of Evidence (for the Council)

Management Plan, a detailed planting scheme and a Landscape and Ecological Management Plan, the cabling works to be in accordance with the Ecological Appraisal Report, the submission of a farmland bird survey and mitigation strategy, tree protection in the form of an Arboricultural Method Statement to be agreed, and details of lighting, boundary treatments and CCTV locations.

123. In the interests of highway safety, conditions are required relating to: temporary fencing to prevent glint and glare where necessary, adherence to the Construction Traffic Management Plan, a condition survey prior to and after construction and remediation works, construction of the vehicular access in accordance with submitted details, retention of visibility splays, surface treatment, surface water discharge to the highway and construction of gates onto the highway.
124. A condition is imposed to ensure the retention and management of the public right of way during construction in the interests of public amenity. A condition is required to ensure the submission of a Battery Safety Management Plan in the interests of public safety. To prevent flooding, conditions are required to ensure adherence with the submitted Flood Risk Assessment and Drainage Strategy, the submission of a Drainage Verification Report and a detailed maintenance plan. In the interests of the amenity of nearby occupiers, conditions are imposed relating to noise and hours of construction / decommissioning. To ensure benefits to ecology and biodiversity in accordance with the submitted applications, a Sheep Grazing Management Plan is required.

### **Conclusion for Appeals A and B**

125. For the reasons given above both appeals should be allowed.

*S Heywood*

INSPECTOR

## **Annex 1 – Appeal A and Appeal B Conditions**

- 1) The development hereby permitted shall be begun not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing number RC3-02-P01-1 Rev02 (Site Location Plan)  
Drawing number RC3-02-P01-2 Rev02 (Site Location Plan)  
Drawing number RC3-02-P01-3 Rev02 (Site Location Plan)  
Drawing number RC3-02-P01-4 Rev02 (Site Location Plan)  
Drawing number RC3-02-P02 Rev04 (Proposed Site Plan)  
Drawing number RC3-02-P03 (PV Elevations)  
Drawing number RC3-02-P04 (Inverter/Transformer Stations)  
Drawing number RC3-02-P05 (Internal Access Road Detail)  
Drawing number RC3-02-P06 (Fence and Gate Elevations)  
Drawing number RC3-02-P07 (Weather Station Detail)  
Drawing number RC3-02-P08 (Substation Elevations)  
Drawing number RC3-02-P09 (Control Room Elevations)  
Drawing number RC3-02-P10 (Auxiliary Transformer)  
Drawing number RC3-02-P11 (CCTV Elevations)  
Drawing number RC3-02-P12 (Battery Container Elevations 40ft)  
Drawing number RC3-02-P13 (Storage Container Elevations 40ft)  
Drawing number RC3-02-P14 (Battery Fence and Gate Elevations)  
Drawing number RC3-02-P17 (PRoW Cross Sections)  
Drawing number P22-1918\_EN\_003E (Detailed Landscape Design)

- 3) The planning permission hereby granted shall be limited to a period of 40 years commencing from the date electricity generated by the solar panels is first exported to the National Grid. At the end of this 40-year period, the development shall be removed, and the land restored to its previous agricultural use pursuant to the Decommissioning Method Statement approved under Condition 4 of this permission.
- 4) No later than six months prior to the expiry of the planning permission, or within six months of the cessation of electricity generation by this solar PV park, whichever is the sooner, a Decommissioning Method Statement setting out 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:
  - a) a programme of works;



- b) a method statement for the decommissioning and dismantling of all equipment and surfacing on site;
- c) details of any items to be retained on site;
- d) a method statement for restoring the land to agriculture;
- e) timescales for the decommissioning, removal and reinstatement of the land;
- f) a method statement for the disposal/recycling of redundant equipment/structures.

The decommissioning of the site shall be undertaken in accordance with the approved Decommissioning Method Statement. The operator shall notify the Local Planning Authority in writing within five working days following the cessation of electricity generation.

- 5) The operator shall notify the Local Planning Authority in writing within 10 working days of electricity generated from the development being first exported to the National Grid.
- 6) No works shall take place in relation to the cabling works to connect the development hereby approved to the electricity network until a Cable Method Statement to control the impact of the development on the environment, highway users, and the amenity of the public and nearby occupiers has been submitted to and approved in writing by the Local Planning Authority. The Cable Method Statement shall include a cross section plan of the trench and describe the method by which the cable will be laid. The works shall be implemented and retained in accordance with the approved details during the cabling works associated with the development hereby approved.
- 7) No development shall take place until:
  - a) A Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority.
  - b) The programme of archaeological evaluative fieldwork and associated post excavation analysis and report production detailed within the approved WSI has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the Local Planning Authority.
  - c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This shall detail a strategy to mitigate the archaeological impact of the proposed development and shall be informed by the results of the archaeological evaluation. The development, and any archaeological fieldwork, post-excavation analysis, publication of results and archive deposition detailed in the approved documents, shall be undertaken in accordance with those approved documents.
- 8) No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP)

has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of "biodiversity protection zones";
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts to biodiversity features during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs;
- i) Details for the control and management of noise and dust during the construction phase; and
- j) Shall have due consideration of noise guidance contained within BS 5228:2009+A1:2014.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 9) The development hereby approved shall be carried out in accordance with the approved Detailed Landscape Design drawing ref: P22-1918\_EN\_003E. The approved details shall be carried out prior to the completion of construction, or in the first planting season following first exportation of electricity to the National Grid, whichever is the earliest, and thereafter retained and maintained in accordance with the LEMP approved pursuant to Condition 10 of this permission.
- 10) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of development. The LEMP shall include the following:
  - a) Updated protected & notable species surveys (reflecting the species identified within the submitted Ecological Appraisal Report dated 26 October 2022) with updated recommendations for species and habitat enhancement measures as necessary;
  - b) Planting details, in accordance with Condition 9 of this permission;
  - c) Full details of habitat enhancement and creation measures;
  - d) Details of the monitoring of the proposed species and habitat enhancements;
  - e) A management plan for the lifetime of the development (including decommissioning phase);
  - f) Full details of the monitoring of the management plan;

- g) The plan shall also set out (where results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved LEMP shall thereafter be implemented in full.

- 11) The cabling works to connect the development hereby approved to the electricity network shall be carried out in accordance the protection methods and legislative compliance measures as detailed in Table 5.1 'Ecological Constraints and Opportunities' of the Ecological Appraisal Report (prepared by Avian Ecology, Version 3, dated 26<sup>th</sup> October 2022) and any protection methods/mitigation maintained during the construction period.
- 12) No development shall take place until a wintering and farmland breeding bird mitigation and monitoring strategy, that includes skylarks, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall only proceed in accordance with the approved mitigation and monitoring strategy. The strategy shall include details of the following:
  - a) Purpose and conservation objectives for the proposed measures;
  - b) Detailed methodology for measures to be delivered;
  - c) Location of the proposed measures; and
  - d) the Mechanism for implementation and monitoring of delivery.

The farmland bird mitigation strategy shall be implemented in the first nesting season following completion of the development in accordance with the approved details and shall be delivered for a minimum period of 10 years from first implementation.

- 13) No works shall take place within the site or in relation to cabling works to connect the development hereby approved to the electricity network until an Arboricultural Method Statement using the Heads of Terms set out in Section 8 of the Arboricultural Impact Assessment (prepared by Barton Hyett, dated 31st October 2022) has been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and any protection methods/mitigation maintained during the construction period. The details to be submitted shall include:
  - a) Details of trees and hedges to be retained and removed;
  - b) Details of tree surgery work to retained trees;
  - c) Specification for tree protection including layout and type of tree protection for construction including change that may occur during development;
  - d) Location and installation of services, utilities and drainage;
  - e) Details of construction within the root protection area of retained trees;

- f) Details of site access, temporary parking, welfare facilities, loading and unloading, storage of equipment, materials, fuels and waste;
  - g) Boundary treatments within the root protection areas;
  - h) Arboricultural supervision and inspection, including timings, reporting of inspections and supervision; and
  - i) Details of the methodology to be used to install the cable past all trees along the cable route along with a finalised Tree Protection Plan.
- 14) Prior to the commencement of development, a scheme to deal with the provision of temporary boundary fencing to address glint and glare where necessary shall be submitted to and approved in writing by the Local Planning Authority. The fencing as approved shall remain in place until the new planting and any additional planting to enhance the existing established planting has reached a minimum height of 3 metres (or greater) and shall be thereafter removed. The Local Planning Authority shall be notified in writing a minimum of 10 working days prior to the removal of any temporary fencing.
- 15) The submitted Construction Traffic Management Plan (CTMP) dated October 2022 shall be adhered to throughout the construction period.
- 16) No development shall take place until a condition survey of the highway in the vicinity of the approved vehicular access has been submitted to and approved in writing by the Local Planning Authority. Thereafter following the completion of the development, a further condition survey shall be undertaken to identify defects to the highway attributable to the developer in the vicinity of the approved vehicular access. This survey, including details of any remediation works to the highway, shall be submitted to and approved in writing by the Local Planning Authority. Where necessary, any approved remediation works to the highway shall be undertaken within one month of the first exportation of electricity to the Grid.
- 17) Prior to commencement of development, including any site clearance, the proposed Solar Farm Vehicular Access, shown on drawing No. RC3-02-P02, Revision 04 and in the submitted Construction Traffic Management Plan (CTMP), October 2022 shall be constructed as shown. The access arrangements shall be constructed in accordance with the following approved plans:
- Proposed Site Access Arrangement on A132 at Existing Field Access, drawing No. SK01, Revision A.
  - Heavy Goods Vehicle 18.55 metres long Swept Path, drawing No. SK03 and SK04.
- The vehicular access shall be carried out as approved and provided with an appropriate vehicular crossing of the highway verge to accommodate all vehicle movements for the construction phase.
- 18) The visibility splays in both directions to the highway vehicular access shown on the Proposed Site Plan, drawing No. RC3-02-P02, Revision 04, shall be kept free of foliage for the lifetime of the development measured from and along the nearside edge of the carriageway.

- 19) No unbound material shall be used in the surface treatment of the highway vehicular access shown on the Proposed Site Plan, drawing No. RC3-02-P02, Revision 04, within 20 metres of the highway boundary.
- 20) There shall be no discharge of surface water from the development onto the Highway.
- 21) The gates provided at the highway vehicular access as shown on the Proposed Site Plan, drawing No. RC3-02-P02, Revision 04, shall be inward opening only and shall be set back a minimum of 20 metres from the back edge the carriageway.
- 22) No development shall take place until a Public Rights of Way Management Plan has been submitted to and approved in writing by the Local Planning Authority. The management plan shall include measures to ensure the public's right and ease of passage over the public footpath 8 (Runwell Parish 231) is maintained and unobstructed during the construction period of the approved development. Where necessary, the Management Plan shall include details of any required diversions to public footpath 8 and implementation prior to the closure of the footpath. The approved Management Plan shall be adhered to for the duration of the construction of the development.
- 23) Works to form the Battery Energy 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 Battery Energy Storage System shall be operated in accordance with the approved BSMP at all times.
- 24) The development shall be provided in accordance with the submitted Flood Risk Assessment and Drainage Strategy (Report No. P19-FRA October 2022).
- 25) Prior to the first exportation of electricity, a Drainage Verification Report shall be submitted to and approved in writing by the Local Planning Authority. Such report shall be produced by a suitably qualified, independent drainage engineer and shall demonstrate the surface water drainage system for the site has been installed correctly, based upon the submitted Flood Risk Assessment. The details shall include:
  - a) Any departure from the agreed design is in keeping with the approved principles;
  - b) Any As-Built Drawings and accompanying photos;
  - c) Results of any Performance testing undertaken as a part of the application process (if required / necessary);
  - d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc; and
  - e) Confirmation that the system is free from defects, damage and foreign objects.
- 26) Prior to first exportation of electricity a detailed maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. It should additionally show that

there is a regular and strict maintenance plan in place for the outfall to reduce the risk of blockage. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided. The surface water drainage system shall be maintained in accordance with the maintenance plan.

- 27) The development hereby approved shall be carried out in accordance with the mitigation measures set out in Paragraph 5.1.4 of the approved Noise Impact Assessment (prepared by inacoustic, Version 2, dated 25th October 2022), and thereafter retained and maintained throughout the lifetime of the approved development.
- 28) No construction or decommissioning works shall take place except between the following hours: 08:00 to 18:00 Monday to Friday, and 08:00 to 13:00 Saturday. No construction or decommissioning works shall take place at any time on Sunday or a Bank Holiday.
- 29) Prior to their installation, details of boundary treatment and CCTV cameras shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out as approved prior to first exportation of electricity to the National Grid and permanently retained and maintained in accordance with the agreed form. The details to be submitted shall include:
  - a) Details of the proposed treatment of all boundary fencing;
  - b) Details of the CCTV cameras; and
  - c) Whole perimeter fencing plan including provision for the ingress and egress of badgers and other small mammals.
- 30) No external lighting, including lighting required for construction and decommissioning, shall be installed at the site until such time as a lighting strategy for biodiversity has been submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed in accordance with the details agreed in the strategy and shall be maintained thereafter in accordance with the agreed details. No additional external lighting shall be installed without prior written consent from the Local Planning Authority.
- 31) 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.

---END---



## APPEARANCES

### FOR THE APPELLANT:

Thea Osmund-Smith and  
Odette Chalby, of Counsel

Paul Burrell, Executive Director, Pegasus Group

She called:

Andrew Cook  
BA (Hons) MLD CCMLI  
MIEMA CEnv

Landscape witness

Paul Burrell  
BSc (Soc Sci) Hons  
DipUP MRTPI

Planning witness

### FOR THE LOCAL PLANNING AUTHORITY:

Mark O'Brien O'Reilly of Counsel    Instructed by Chelmsford City Council

He called:

Mr Jon Etchells  
MA BPhil CMLI

Landscape witness

Alison Hutchinson

Planning witness

## DOCUMENTS

- |      |  |
|------|--|
| INQ1 | Appellants' Opening Statement  |
| INQ2 | Council's Opening Statement  |
| INQ3 | Chelmsford Butterfly Flit, Wickford and Battlesbridge<br>Circular, footpath information submitted by Council |
| INQ4 | Register of Buildings of Local Value in Runwell, submitted by<br>Council                                     |
| INQ5 | Legal Cases Note, submitted by appellants  |