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## Appeal Decision

Inquiry held on 21 – 24 May 2024

Site visits made on 20, 23 and 24 May 2024

**by Alison Partington BA (Hons) MA MRTPI**

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

**Decision date: 8<sup>th</sup> July 2024**

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**Appeal Ref: APP/P3040/W/23/3329235**

**Land to the west of Wood Lane and Stocking Lane, Kingston Estate, Gotham, Nottinghamshire, NG11 0LF**

- 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 Ms Sarah Rocks (Renewable Energy Systems (RES) Ltd) against the decision of Rushcliffe Borough Council.
  - The application Ref is 22/00319/FUL.
  - The development proposed is the installation of a renewable energy generating solar farm comprising ground-mounted photovoltaic solar arrays, together with substation, inverter stations, security measures, site access, internal access tracks and other ancillary infrastructure, including landscaping and biodiversity enhancements.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council confirmed (26 April 2021) that an Environmental Impact Assessment was not required. There is no reason to disagree.
3. It was questioned whether it was appropriate for the proposal to be considered under the provisions of the Town and Country Planning Act 1990 rather than it being a Nationally Significant Infrastructure Project. The National Policy Statement for Renewable Energy Infrastructure EN-3 (November 2023) indicates that the generating capacity of a site is to be determined by the maximum combined capacity of the installed inverters. The appellant has confirmed that this will not exceed 49.9MW AC and a condition to this effect is proposed. In addition, it was confirmed that the level of 'overplanting' on the site would be limited to approximately 5%. As a result, I am satisfied that it is appropriate for the appeal to be determined as a 49.9MW scheme under the Town and Country Planning Act 1990.
4. At the time of the Inquiry the Council had commissioned a Solar Farm Landscape Sensitivity and Capacity Study. I understand that this was published on 4 July 2024. However, it was agreed at the Inquiry that the findings of this study should not be taken into account if they were published before my decision was issued. I have determined the appeal accordingly.

### Main Issues

5. The parties are agreed that the proposal is inappropriate development in the Green Belt in terms of local and national policy.

6. Given this, the main issues in the appeal are:

- The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
- The effect of the proposed development on the character and appearance of the landscape;
- The effect of the proposed development on users of the nearby public rights of way network; and
- Whether the harm to Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposed development.

## Reasons

### *The site, the surrounding area and the proposal*

7. The appeal site comprises 16 fields in a mix of arable and pastoral use which total approximately 80ha. The site is split into a northern and southern section by Leake New Wood and a number of other mature mixed woodlands surround the site. Field boundaries are mainly defined by mixed hedgerows. A number of bridleways and public rights of way cross the site or lie adjacent to it, including one which forms part of the long distance walking route known as Midshires Way.
8. The site occupies elevated and gently undulating land between the villages of Gotham and East Leake. It is also within the Nottinghamshire – Derbyshire Green Belt. The land immediately adjacent to the site comprises other agricultural land, dense mature woodlands and a golf course with the occasional individual farmstead or dwelling. The wider area has a rolling topography and contains a mix of agricultural land, villages, woodlands and commercial uses including the British Gypsum works and the Ratcliffe-on-Soar power station.
9. The proposal would consist of ground mounted solar arrays arranged in rows in 15 of the 16 fields, along with essential electricity generation infrastructure, internal access tracks, security fencing, pole mounted CCTV cameras and boundary landscaping. The proposal would have a 40 year operational lifespan after which all equipment other than the sub-station would be removed.

### *Planning policy context*

10. The development plan comprises the *Rushcliffe Local Plan Part 1: Core Strategy (adopted December 2014)* (LP1), the *Rushcliffe Local Plan Part 2: Land and Planning Policies (adopted October 2019)* (LP2). The northern part of the site is covered by the *Gotham Neighbourhood Plan (made January 2020)* (GNP). Whilst the southern section of the site abuts a ridgeline identified within the *East Leake Neighbourhood Plan (ELNP)* (made November 2015), the southern part of the site is not covered by it.
11. The reason for refusal references Policy 16 of LP2 which deals with developments for renewable energy and Policy 21 of the same which deals with development in the Green Belt. In addition, within evidence and/or at the inquiry the Council have also referred to LP1 Policies 2 and 10 which deal with

Climate Change and Design and Enhancing Local Identity respectively and Policy 34 of LP2 which covers Green Infrastructure and Open Space Assets.

12. The *National Planning Policy Framework* (the Framework), the *Planning Practice Guidance* (PPG), the *National Policy Statement on Energy* (EN-1) and the *National Policy Statement on Renewable Energy Infrastructure* (EN-3) are all material considerations.

### Green Belt Openness and Purposes

#### *Openness*

13. Policy 21 of LP2 indicates that development in the Green Belt will be determined in accordance with the Framework. The Framework indicates that the Government attaches great importance to the Green Belt. The fundamental aim is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are their openness and their permanence. Openness has both a visual and spatial element.
14. The appeal site comprises 16 open fields. The proposal would introduce development in the majority of these fields with the appellant indicating that the buildable area of the proposal would be 50% of the entire site. Although the footprint of the posts holding the arrays would be small, the panels themselves are larger. They would have the effect of covering more of the ground area, albeit that their mass would be broken up by the grass in between each row and the fact that there would be 'airspace' and functioning soil beneath the panels. In addition, there would be access tracks, fencing, a substation and inverters as part of the proposal. As a result, I consider that the proposal would diminish the openness of what comprises a significant area of the Green Belt spatially.
15. Despite occupying an elevated position, the topography and surrounding woodland means that, at present, views of the site from much of the surrounding countryside and nearby highways are limited even in the winter. As such, visually the current openness of the site is largely only perceived from the footpaths and bridleways in the immediate vicinity of the site. Whilst the surrounding mature mixed woodlands include areas of coniferous trees, none appeared to be predominantly commercial plantations that would have a greater propensity to being felled in their entirety and thus significantly altering the current level of enclosure and containment they provide to the site.
16. The existing boundary hedging largely prevents views into a number of the fields, and it is proposed to maintain and infill gaps in this. New hedging is also proposed along field boundaries where none exists at present. It is stated that both the existing and proposed hedging would be maintained at a height of between 3 and 4m. Given the height of the proposed panels and associated structures, they would be largely screened from view by this vegetation, with views of the proposal being restricted to field access points. For much of the new hedgerow planting it is proposed to use 'instant hedging'. This would be planted in advanced of the construction phase which would help to ensure the screening effect of the planting was achieved earlier than would be case if 'normal' hedging was used. Nonetheless, it would still take several years to be fully mature.

17. Nonetheless, on small stretches of some of the surrounding public rights of way the proposed new hedging would restrict some currently open views across fields towards woodlands such as from around viewpoint 8 and from the bridleway along fields 7 to 10 and field 15. It would also result in the loss of a long range view westwards near Cuckoo Bush Farm, and the view across field 11 possible on the bridleway that runs along the edge of this field. As a result, visually the proposal would cause some harm to the perception of openness from these rights of way. However, the degree of this harm is limited and its extent localised.
18. The PPG indicates that when assessing the impact of a development on the openness of the Green Belt, the duration of the development and its remediability, and the degree of activity it would be likely to generate, are matters to take into consideration. The proposal would occupy the site for 40 years, after which it could be returned to agricultural use. This can be secured by condition. Whilst not permanent it is still a significant period of time, during which the openness of the Green Belt would be reduced. In addition, apart from during the construction phase and during decommissioning, the development would generate minimal activity.
19. Taking all of the above together, both visually and spatially, the proposal would result in moderate harm to the openness of the Green Belt. This adds to the harm caused by reason of inappropriateness.

#### *Purposes*

20. As defined by paragraph 143 of the Framework, the Green Belt serves 5 purposes (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and spatial character of historic towns; and (e) to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
21. The main parties are agreed that the proposal would not conflict with purposes (a), (b), (d) or (e). The Parish Councils consider that given the proximity to East Leake, which has a population of around 9,000 the proposal would be contrary to purpose (a). The appeal site is not immediately adjacent to the built edge of East Leake or any other settlement, being separated from it by open land. As a result, the proposed development would be visually discrete from it. Moreover, the solar panels and associated infrastructure would be relatively low-lying features, that would have a completely different character and form to the residential development in East Leake. As such, the proposal would not be seen as the spreading out of the settlement and would not be contrary to this purpose. In addition, nothing I have seen, read or heard leads me to conclude that the proposal would be contrary to purposes (b), (d) or (e).
22. With regard to purpose (c) the appeal scheme would introduce man-made structures into 15 fields and would change their character. Nonetheless, the solar arrays would be located within the existing field pattern and the scheme would retain and enhance the existing field boundaries which would result in limited visibility of the scheme from outside the site. Furthermore, the solar arrays would be low-lying, open sided features, that would be temporary in nature, limiting the overall effect on the countryside.

23. Nonetheless, the proposal would cause encroachment into the countryside, contrary to this purpose. I agree with the appellant's conclusion that the degree of harm in this respect would be moderate.

*Green Belt conclusion*

24. The parties agree that the proposal is inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. The development would also cause some harm to the openness of the Green Belt and by causing a degree of encroachment into the countryside would conflict with one of the purposes of including land in the Green Belt. In line with paragraph 153 of the Framework, the harm to the Green Belt from these matters results in substantial weight against the proposal. The proposal would not accord with LP2 Policy 21 or the Framework outlined above.

*Character and appearance of the landscape*

25. Amongst other things Policy 16 of LP2 indicates that renewable energy schemes need to be acceptable in terms of their landscape and visual effects. Outside of settlement boundaries, LP1 Policy 10 requires that new development should conserve, or where appropriate, enhance or restore landscape character and states that proposals will be assessed with reference to the Greater Nottingham Landscape Character Assessment.
26. At a national level the appeal site lies within National Character Area 74: Leicestershire and Nottinghamshire Wolds, whilst at a regional level, the East Midlands Regional Landscape Character Assessment identifies the site as being within the Clay Wolds Area. Key characteristics of both these areas, together with the landscape management opportunities are set out in the proof of evidence of the appellant's landscape witness.
27. As set out in the Greater Nottingham Landscape Character Assessment, the appeal site lies within the Nottinghamshire Wolds Regional Character Area and within this character area it is in the Gotham and West Leake Wooded Hills and Scarps Draft Policy Zone (DPZ). Key characteristics of this DPZ include: a rural character although urban elements such as villages, power station, industry and quarrying are frequent in the landscape; a mixture of woodland, arable and pasture with woodland generally on higher ground; a modern field pattern with field boundaries being mainly hedgerows; and rides and areas of open land are interspersed between plantation woodland. I observed all these characteristic features during my site visits.
28. It is considered that the landscape condition of the DPZ is good and that it has a strong landscape character and so the overall landscape strategy is to 'conserve'. Landscape actions include: conserving the distinctive pattern of hills with large blocks of woodland on high ground, and arable farming on lower ground and pasture on steeper and higher slopes; conserving the field patterns; and conserving hedgerows and encouraging infill planting in gaps rather than timber fencing.
29. The appellant submitted a Landscape Visual Appraisal (LVA) with the application which at the time was reviewed by an independent landscape expert on behalf of the Council. The LVA was also reviewed by the appellant's landscape witness, who also undertook his own analysis of the effect of the proposal on the landscape which took account of the changes in the design of

the proposal during the determination of the application. On the basis of this he formed his own professional judgements, which differ in part from the findings of the LVA. A number of criticisms of the LVA were raised by an interested party who considered that it underestimated the landscape and visual effects. Given the diverging views in the evidence before me, whilst I have taken into account the various evidence presented to me, I have come to my own conclusions based on this and what I observed on my visits to the site.

30. In the vicinity of the site the woodlands and existing hedgerows often create a significant sense of enclosure which contrasts with the extensive views that are possible for example when looking north near field 11 or south when on the footpath between Crownend Wood and Leake New Wood. Whilst some of these panoramic views reveal a tranquil landscape with scattered farmsteads and buildings, in others the agricultural landscape is interspersed with various urban influences including larger settlements, industrial development and the nearby power station. Nevertheless, the immediate vicinity of the site has a distinctly rural character.
31. The site itself is not covered by any national or local landscape designations and whilst typical of the area, is not particularly notable in landscape character terms. Whilst it is clearly highly valued by local people, with reference to paragraph 180 of the Framework, I do not consider it is a "valued landscape". Overall, I consider that the landscape in the area has a medium value and a medium sensitivity to change.
32. Despite the modest height of the panels and most of the associated supporting infrastructure, the straight rows of panels and the horizontal emphasis of the scheme, to the extent that it would be perceived, would appear out of place in this rural landscape.
33. However, through the grazing of sheep the agricultural use of the land would continue. Whilst this would result in all the fields being used for pasture (alongside the panels) rather than the current mix of arable and pasture, such a change in agricultural use could take place at any point in time without the need for planning permission.
34. In addition, the proposal would retain the field layout and existing boundary hedging which, along with the proposed infilling of hedges, and the planting of new hedgerows and tree belts would be beneficial to the landscape character as well as diminishing the effect of the uniform rows of panels. Furthermore, due to the high degree of visual containment of the site, the proposal would not have any detrimental impact on the landscape character of the wider area. So overall, I consider the magnitude of change to the local landscape character brought about by the proposal would be low.
35. Taking into account the sensitivity and capacity of the landscape to absorb change, and the low magnitude of change the proposal would result in, I consider that the proposal would result in a minor adverse effect on landscape character during the lifetime of the development.
36. The extent of visibility would vary from season to season. But, as set out above, the topography and existing woodlands surrounding much of the site, which largely comprise a mix of coniferous and deciduous trees, means that long distance views of the proposal would not generally be possible either from roads in the area or the public rights of way network in the wider surrounding



countryside. Whilst open views towards the site are possible from the bridleway adjacent to Cottagers Wood, I observed that views of the site itself are limited and are a very small component of the wider panorama.

37. There are a number of public rights of way that cross or abut the site. The existing boundary hedges are currently of a height that prevents views into many of the fields that form the site, albeit that in the past the hedges may have been maintained at a lower height that enabled views across some fields. The appellant highlighted that farm stewardship programmes encourage hedges to be left to grow higher to improve biodiversity.
38. Nonetheless, views of the site are possible in places where field boundaries are currently open, and where there are gaps in the existing hedgerows or field accesses. It is proposed to infill gaps in the existing boundary hedges, and to plant new boundary hedges and tree belts that would restrict these views. Even though advanced planting of 'instant hedging' is proposed in most places, it would still take a number of years for the new planting to fully mature. As such, during the construction period and initial operational years the proposal would be visible from a number of points along the adjacent public rights of way and those which cross the site.
39. Moreover, although when fully mature in summer visibility of the proposal would be limited to field access tracks, in winter the screening impact would be lessened, although the planting would still to a certain degree interrupt views of the panels and associated infrastructure. The substation infrastructure includes a 15m lattice type tower. The substation is set well back from public vantage points and the topography and existing woodlands means it would not be readily visible in views from the surrounding rights of way network or further afield, despite its height. In this respect it is considerably shorter than the telecommunication tower adjacent to field 7 which can be seen in some longer range views.
40. Whilst there are no views where the full extent of the proposal would be possible, the considerable size of the proposal would be apparent to those traversing through the area particularly on the bridleway that goes along Wood Lane and Stocking Lane.
41. Additionally, a significant level of hedgerow would need to be replanted at the junction of Wood Lane and Kegworth Road in order to create adequate visibility splays at this junction which is to be used by construction traffic. Until this hedge is re-established this work would also have an adverse visual impact in the vicinity of this junction.
42. Although the visual impact of the proposal would be localised, in the short term the proposal would result in a moderate adverse visual impact. With advanced planting of instant hedging this would reduce to minor/negligible relatively quickly.
43. There are a number of other proposals for solar farms in the wider area, although some of these do not currently have planning permission. Whilst there were distant views of some wind turbines, on my site visit I did not see other solar farms. Of those solar farms which have consent there would be little intervisibility either due to distance or the topography. Consequently, I do not consider there would be an adverse cumulative visual impact arising from the proposal.

44. In addition, taking into account the fact that the character of the wider area is one which includes a large power station and industrial uses, I consider that the proposal, together with the other consented solar farms, would not cumulatively have a detrimental impact on the character of the area.
45. All in all, I consider that the proposal would cause slight harm to both the character and appearance of the landscape, thus there would be some limited conflict with the policies set out above.

*Effect on users of the public rights of way network*

46. The area around the appeal site contains an extensive network of bridleways and footpaths that are clearly well used and highly valued by local people and riders. In particular, the considerable network of off-road bridleways makes it an attractive area for horse riders. The proposed development would not result in loss or diversion of any of these rights of ways and a new permissive path is proposed to the south of fields 7 – 10.
47. The nature of the various routes around the site vary quite considerably. Many are quite wide with grass verges either side of a crushed stone track, while others are unsurfaced and/or narrow. At points, such as when passing through the woodland the paths are enclosed, at other times they have hedges to both sides and at other points are open and have wide ranging views. The contrasting character in my opinion adds to their attractiveness.
48. The proposed gapping up of existing hedges along field boundaries would have limited visual impact on the users of the rights of way, as they provide only glimpsed views into fields. However, the proposed planting along what are currently open boundaries such as in field 11 and along the southern side of the path adjacent to fields 7-10 would result in the loss of views across these fields. Whilst these views are not long range views they still provide a sense of openness, that would be curtailed.
49. The 'green lanes' that are proposed here would be a generous width with grass verges before hedges and other planting, and so would not create a tunnelling effect. Moreover, they would reflect similar 'green lanes' already found in the vicinity such as adjacent to fields 5 and 6, and between fields 6 and 7. Whilst in time, people would adapt to these changes and they would become no less attractive than the existing 'green lanes', initially current users familiar with the routes would no doubt notice the loss of openness at these points of the network.
50. Long range views are currently possible from Bridleway 12 in the immediate vicinity of viewpoint 3. Whilst the panels would be set back some distance from this farmstead, ensuring a degree of openness would remain, the long range views that are currently possible would not be retained due to the proposed tree belt. However, the proposal would not impact on the panoramic views northwards possible near field 11 or those southwards when emerging from the woodland on bridleway 3 or 12.
51. Medium range open views across fields towards woodlands are also possible around viewpoint 6 and 8. These views would be curtailed to a certain extent by the proposed hedging in fields 15 and 13. However, on the whole given the distance from the rights of way to these hedges the visual impact on users



- would be limited although some limited adverse impact for users would occur when travelling northwards along bridleway 13 between viewpoint 6 to 5.
52. Generally, once the proposed planting has matured, views of the solar farm would largely be limited to where field access points are adjacent to a route. Such views would be brief and so this would limit the negative experience the proposal would cause to users.
53. Whilst the eye level of riders is significantly higher than walkers, as it is proposed to maintain the hedges at a height of between 3 and 4m, this would be sufficient to ensure that in the long term the visual impact on riders would be no different to other users.
54. The appellant's acoustic impact assessment identified that the main noise associated with the solar farm would be associated with the inverters and the substation. These are largely set some distance from the public right of way network. The assessment was considering the impact on the nearest residential properties rather than the rights of way network. However, given its findings, and in the absence of any substantive evidence to the contrary, I am satisfied the noise created would not have a detrimental impact on users of the network.
55. Whilst I understand that horses are more sensitive to noise and vibration than humans, the British Horse Society noted that apart from the proposed new permissive path, the inverters are generally located away from the bridleways, and raised no specific concern in this regard. Nor have I been provided with any substantive evidence to show that solar farms have an unacceptable impact in this regard.
56. The noise during the construction period would be greater and would be more likely to have an adverse impact on users, as would the impact of construction traffic using the stretch of Wood Lane between Kegworth Road and the site compound in field 5. The necessary widening of this lane may not require the removal of the existing hedgerows but would reduce the depth of the current grass verges which would have a detrimental visual impact on this rural lane. It is indicated that the construction phase would be a relatively short period of time, and the Construction Transport Management Plan which can be secured by a condition, would seek to minimise the impacts. Nevertheless, the construction period would have a detrimental impact on users of the network.
57. Overall, given the high sensitivity of the users of the rights of way network, I consider that through the loss of the sense of openness and certain views of the proposal, and the impact of the construction phase, the proposal would initially result in moderate adverse impact on users of the public rights of way network. This would reduce to minor over time. Whilst the proposed new footpath would be a welcome addition and would provide an alternative route through the area, this would not compensate for the adverse impact the proposal would have on users. Therefore, there would be some conflict with Policy 34 of LP2 which seeks to protect Green Infrastructure assets, including rights of way, from development that adversely affects their green infrastructure function.

### Other Considerations

#### *Benefits arising from the provision of renewable energy*

58. The proposal would supply up to 49.9MW of renewable energy, which is estimated to provide sufficient electricity to power around 13,500 homes. The site benefits from an immediate connection to the grid by way of underground cable to the existing nearby 132kV power line.
59. In recent years both the Government and the local council have declared an Environmental and Climate Change Emergency. Various recent government publications have highlighted the need to significantly increase generation from onshore wind and solar energy production, as it seeks to ensure that by 2035 all our electricity will come from low carbon sources. To achieve this ambitious target, it is clear that considerable growth in large scale solar farms will be necessary and this cannot be achieved solely by the use of brownfield land or roof top installations.
60. The recent Written Ministerial Statement (May 2024) confirms that solar power is also a key part of the government's strategy for energy security, net zero and clean energy. Whilst to improve energy security the Government's Energy Security Strategy (April 2022) expects a five-fold increase in solar capacity by 2035, I do not consider that this increase in capacity is in addition to the increase in capacity it foresees as being required to address the climate change emergency. As such, I see the benefits the proposal can make to energy security and addressing climate change are linked.
61. I have been provided with various differing evidence regarding the current rate of progress towards meeting these ambitious targets. Nonetheless, government guidance remains that there is an urgent need for new renewable energy generating capacity.
62. In addition, the Council is seeking to be carbon neutral by 2030 and is seeking to support local residents and businesses reduce their carbon footprint so that the borough will be net zero for its emissions by 2050.
63. Whilst I note the concerns raised about the efficiency of solar farms and their ability to produce power when it is most needed, the government clearly identifies solar energy as a form of renewable energy in which they want to see significant growth. Moreover, the efficiency of the panels has improved markedly in recent years.
64. Nonetheless, the proposed development would make a valuable contribution to achieving these local and national goals. The support in both national and local policy for renewable energy is caveated by the need for the impacts to be acceptable, or capable of being made so, nevertheless, the renewable energy benefit of the proposal must be accorded substantial weight.

#### *Alternative Sites*

65. There is no national or local policy requirement to carry out an assessment of alternative sites for solar farm developments. Nevertheless, the appellant has provided a Grid Capacity Analysis which sets out an assessment of alternative sites that could connect to the 132kV Ratcliff-on-Soar to Willoughby network where the Distribution Network Operator has indicated that there is some capacity available. The appellant has secured a viable grid connection to this

network with a connection date in 2026, which is much earlier than many renewable energy schemes.

66. However, the Council drew my attention to a recent appeal decision<sup>1</sup> for an energy storage facility at Barton in Fabis where it was concluded that the assessment of alternative sites did not demonstrate that there were not alternative sites outside the Green Belt as it had focused solely on the Nottingham East and Ratcliffe-on-Soar 132kV network.
67. The search area was limited to land within 2km of the 132kV line as the appellant have stated that economically and electrically a scheme would not be viable beyond this distance. However, no evidence has been provided to support this assertion and the Council pointed to other appeal decisions where the proposals used larger search areas. The fact that an overhead connection of more than 2km might make the proposal a National Significant Infrastructure Project, does not justify restricting the search area to this distance.
68. Putting the appropriateness of the search area to one side, a total of 11 potential sites were identified within the search area. However, consideration was only given to sites which had a single land ownership and were a minimum of 300 acres. Whilst generally it is likely to be easier to deal with a single landowner, that is not necessarily the case and to rule out sites in multiple land ownership could have ruled out potential sites. Moreover, given the appeal site is 200 acres it is not clear why alternative sites need to be a minimum of 300 acres.
69. Whilst some of these sites had a number of constraints that mean they are not realistic alternative sites, with sites F and G a key reason for ruling them out appears to be due to their size. For site F it is stated that only around 200 acres would remain once high level constraints were removed. These high level constraints include removing the land in the Green Belt. If the same high level constraint was applied to the appeal site, then the entire site would have been discounted.
70. Once various known constraints have been applied to sites F and G, the assessment indicates that 155 acres and 160 acres remain respectively. Given the appeal site is 200 acres in total and requires 100 acres to accommodate the solar panels, the conclusion that these sites are too small, having already removed large amounts of the sites for various known constraints, appears inappropriate.
71. It is indicated that both these sites are further away from the grid connection point and so would have higher construction costs. Nevertheless, they both lie within the 2km area which the appellant has indicated is the threshold for schemes to be viable. Whilst this distance might make the scheme less profitable, there is no specific evidence that shows these sites would be unviable.
72. Consequently, I consider that the assessment of alternative sites is not robust. Therefore, even if it is considered that it is appropriate for the search area to focus solely on 2km from this 132kV network, I am not satisfied that this assessment shows that there are no potential non-Green Belt alternative sites

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<sup>1</sup> Appeal Reference APP/P3040/W/23/3324608

that might be suitable. As a result, I give no weight to the appellant's suggested benefit that there are no alternative sites to the appeal site.

73. Whilst I note the comments that brownfield land should be used in preference to greenfield, the Council's register of brownfield land shows there is very little brownfield land available in the borough and none of the sites it includes are large enough to accommodate the proposal.

#### *Biodiversity and Ecology*

74. The appellant's ecological assessment considered the potential impacts of the development on ecology and an updated survey which includes badger and bat surveys forms one of the suggested conditions. Within a 5km radius of the site are five Sites of Special Scientific Interest and seven Local Nature Reserves. The assessment concluded that there would be no adverse effects on the integrity of any of the statutory designated sites and that with the implementation of the recommended measures, there would be no significant adverse effects on any designated nature conservation site. Nothing leads me to a different conclusion.
75. The assessment considered that the intrinsic ecological value of the site itself is low in terms of habitats and that it had limited potential to support wildlife. The proposal would include a variety of landscape and biodiversity measures including new and improved native hedging, new native trees, species rich grassland, and the provision of bird and bat boxes, hedgehog houses and invertebrate hotels.
76. The deer proof fencing would prevent some larger mammals from crossing the fields, however smaller mammals would still be able to cross the fields and the areas of woodland and green lanes would still be accessible to all wildlife. The ecological assessment concluded the proposal would not be likely to have significant adverse impacts on local wildlife.
77. The biodiversity metric shows that the proposal would result in a substantial increase in biodiversity net gain in terms of habitat and hedgerow units. As such, the limited amount of existing hedging that would need to be removed to facilitate the development would be more than adequately compensated for. Resting the land from arable farming would also result in long term benefits for the soil. This adds to the environmental benefits of the scheme.
78. It is proposed that the new planting of hedges and trees would remain after the decommissioning of the site. However, as outlined above, in a number of places this curtails long distance views or the current openness of the site which contrasts with the more enclosed areas. As such, I do not consider the long term retention of the proposed landscaping is a benefit of the scheme.
79. Overall, I give significant weight to the biodiversity and environmental benefits that would result from the appeal scheme.

#### *Agricultural land*

80. Government publications recognise that achieving the climate change and energy security goals needs to be done alongside maintaining food security. Where it is necessary to use agricultural land, it is indicated that preference should be given to using poorer quality agricultural land rather than the Best

and Most Versatile (BMV) land. It is not disputed that the appeal site is not BMV land.

81. During the operational period it is indicated that the land around the solar panels would be used for the grazing of sheep. So apart from small areas of fixed infrastructure, the majority of the land would still be used for some agricultural purpose during the 40 year period the solar farm operated. It is the intention that it would be returned fully to agricultural land at the end. This accordance with policy is a neutral factor.
82. The appellant has suggested that a benefit of the proposal is that it would enable the diversification of an agricultural business. However, the proposal would be operated by the appellant and would not be part of an agricultural business. Whilst the landowner(s) would receive an income stream for the use of the land, which may help the viability of their business, I am not persuaded that this in itself represents the diversification of an agricultural or rural land use based business as supported by the Framework. As such, I give this only minimal weight.

#### *Use of best available technology*

83. It is stated that, by the use of bifacial solar panels, the appeal scheme would be using the best available technology that would deliver greater levels of solar efficiency and reduces the amount of land required to produce the same output. However, the Council highlighted that the proposal was designed to use either 580W or 610W panels rather than the newer 750W panels. As such, the appeal scheme would not appear to be making the use of the best available technology, even if the use of such panels would not significantly impact on the amount of land required overall. Therefore, I give this no weight.

#### *Good design*

84. Various changes to the design of the scheme have taken place since it was first subject to pre-application discussions with the Council. These include removing panels from field 16 and half of field 15. However, the fact that the appellant was prepared to make changes to the design during the determination process to reflect comments from the local community or statutory consultees, is not in my opinion a positive benefit of the scheme but reflects the fact that the scheme was not acceptable due to the harm it caused. Whilst the way the scheme has been designed may have helped to mitigate the harm it would cause, as outlined above, I consider a degree of harm to the landscape still remains. In any case the Framework (paragraph 131) states that good design is a minimum expectation not a positive benefit of the scheme.

#### *Economic Benefits*

85. The proposal would result in some economic benefit during the construction period albeit this would reduce significantly once the development was operational. It would also result in the generation of additional business rates. It was suggested that the proposal could result in some harm to local businesses that rely on the use of the public rights of way network. The effect on the public right of way network has been considered above. Whilst I have concluded that the proposal would cause some harm to the users of the rights of way network, I am not persuaded that this would lead to the loss of viability

of any existing businesses. However, overall, I only give limited weight to the economic benefits.

### **Other Matters**

86. The site and wider area have been subject to historic gypsum mining but it has been confirmed that there will be no future extraction on the site. The application was accompanied by a Mining Risk assessment which indicates that the majority of the site is classified as 'low' risk with some small, localised areas being 'medium' risk. The appellant has stated that the layout of the proposal has taken account of this and located 'sensitive' infrastructure away from the areas of 'medium' risk to mitigate the effects of any future subsidence.
87. The Local Historic Environment Record indicates that there are two non-designated heritage assets within the appeal site. Exclusion zones were implemented around these as part of the design of the scheme layout. Additionally, the application was accompanied by a Cultural Heritage Impact Assessment which assessed the potential direct and indirect effect of the proposal on both designated and non-designated heritage assets. The Council's Conservation Officer was satisfied that this showed the proposal would not harm the significance of any designated or non-designated heritage asset. I agree with this conclusion.
88. The application was accompanied by a Glint and Glare Assessment which considered the impacts on a wide range of different local receptors and concluded that, after taking account of mitigation measures, the impact on all receptors would be low or none and therefore not significant.

### **Planning Balance and Conclusion**

89. It is agreed that the proposal is inappropriate development in the Green Belt. This, by definition, is harmful to the Green Belt. In addition, the proposal would result in moderate harm to the openness of the Green Belt and would be contrary to one of the purposes of including land in the Green Belt. In line with the Framework, I give substantial weight to the harm the proposal would cause to the Green Belt.
90. In addition, the proposal would cause slight harm to the character and appearance of the landscape and have a minor adverse impact on the users of the rights of way network in the immediate vicinity of the site.
91. On the other side of the planning balance, the Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable low carbon future as well as improving energy security. The appeal scheme would make a significant contribution to this, and I give substantial weight to the contribution the proposal makes to the renewable energy benefits that includes both cutting greenhouse gas emissions and improving energy resilience and security.
92. In addition, I give significant weight to the biodiversity and environmental enhancements that would be achieved by the appeal scheme and limited weight to its economic benefits.



93. An absence of harm with regard to matters such as heritage, archaeology, highways, flood risk and living conditions are neutral factors that neither weigh in favour or against the proposal.
94. The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters, including the advice in EN-1 and the Framework regarding very special circumstances and renewable energy projects.
95. In this case, although quite finely balanced, I consider that the harm to the Green Belt and that caused to the character and appearance of the landscape and the users of the rights of way network are not clearly outweighed by the other considerations identified. Therefore, the very special circumstances needed to justify the development do not exist and the proposal would conflict with the policies in the development plan outlined above and the Framework.
96. Consequently, I conclude that the appeal should be dismissed.

*Alison Partington*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Mr Patrick Robinson of Burges Salmon

He called:

Mr Andrew Cook BA (Hons) MLD  
CMLI MIEMA CEnv

Executive Director, Pegasus Group

Mr Nigel Cussen Bsc (Hons) DipTP  
MRTPI

Senior Planning Director Pegasus Group

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Killian Garvey Counsel

He called:

Ms Emily Temple BSc (Hons) MSc  
MRTPI

Executive Director and Founder ET  
Planning

### INTERESTED PARTIES:

Cllr Matt Barney

Nottinghamshire County Councillor and  
Rushcliffe Borough Councillor

Mr Peter Mostyn

Local resident

Ms Amy Hunt

Local resident

Ms Helen Hamilton

Marches Planning & Environment on  
behalf of East Leake Parish Council,  
Gotham Parish Council and West Leake  
Parish Meeting

Ms Sue Lewis

East Leake Parish Clerk

Ms Carly Tinkler CMLI FRSA MIALE

Interested Party

Cllr Chris Garbett

East Leake Parish Council

Ms J Bromell

West Leake Parish Meeting

Cllr Lesley Way

Rushcliffe Borough Council and local  
resident

Cllr Carys Thomas

Rushcliffe Borough Council and local  
resident

Ms Val Peacock

Local resident and business owner

Mr Thomas Griffiths

Steward of The Rushcliffe Golf Club

Ms Jade Almazan

Local resident and business owner

## INQUIRY DOCUMENTS

INQ1 Opening Statement by Council

INQ2 Opening Statement by Appellant

INQ3 Statement made by Mr Peter Mostyn

INQ4 Statement on behalf of East Leake Parish Council, Gotham Parish Council  
and West Leake Parish Meeting made by Ms Helen Hamilton

INQ5 Statement made by Ms Carly Tinckler

- INQ6 Statement made by Cllr Carys Thomas
- INQ7 Statement made by Mr Thomas Griffiths
- INQ8 Extract of Proof of Evidence of Mr Nigel Cussen for Appeal Ref:  
APP/P3040/W/23/3330045 submitted by the Council
- INQ9 Written Ministerial Statement on Solar and protecting our Food Security  
and Best Most Versatile (BMV) Land
- INQ10 Closing Statement by the Council
- INQ11 Closing Statement by the Appellant

### **CORE DOCUMENTS**

Can be accessed using the following link:

[Kingston Estate Planning Inquiry - Rushcliffe Borough Council](#)