



Appeal Decisions

Hearing Held on 14 January 2025

Site visits made on 13 and 14 January 2025

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 30 January 2025

Appeal Ref: APP/T3725/W/24/3347315

Land to the south of Birmingham Road, Kenilworth

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Exagen Holly Lane Ltd against the decision of Warwick District Council.
 - The application Ref: W/23/1358, dated 13 September 2023, was refused by notice dated 23 April 2024.
 - The development proposed is the construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar Photovoltaics (PV) with co-located Battery Energy Storage System (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling.
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Appeal Ref: APP/Q4625/W/24/3347316

Land to the east of Holly Lane, Meer End, Solihull

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Exagen Holly Lane Ltd against the decision of Solihull Metropolitan Borough Council.
 - The application Ref: PL/2023/01952/PPFL, dated 13 September 2023, was refused by notice dated 9 February 2024.
 - The development proposed is the construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar Photovoltaics (PV) with co-located Battery Energy Storage System (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling.
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Preliminary Matters

1. These appeal decisions relate to a single application for development which would be located across 2 different local planning authority (LPA) areas. The western part of the development would be a solar array and would be located in Solihull Metropolitan Borough. The eastern part of the development would be a battery energy storage system (BESS) located in Warwick District. The two elements would be linked by underground cabling which also forms part of the proposal. The parties agree that the western and eastern parts of the proposals are technically severable from each other and could be developed one without the other. I have dealt with these appeals on the basis that they relate to a single proposal, albeit that it would be possible to issue a split decision with differing decisions for each main element. My ultimate conclusion makes it clear that I do not consider a split decision to be necessary in this case.

2. At the time the appeal was submitted the Appellant sought to slightly alter the details relating to the BESS proposal in Warwick District. The alterations proposed are minor and deal with some matters raised during consideration of the initial proposals. They do not make significant changes to what is proposed. Furthermore the amendments have been the subject of widespread and documented consultation with interested parties. At the hearing I provided an opportunity for representations to be made in relation to the proposed amendments. No representations were made at that time. As I then explained, it is my judgement that no party would be prejudiced, either procedurally, or as a result of the substantive amendments proposed, were I to accept the amended proposal for determination as part of this appeal. Having regard to relevant judgements¹ I am therefore content to accept the amended scheme and consider the case on that basis.
3. Each LPA made its decision on the scheme with reference to the development which would take place within its area and in the light of the respective development plans². Each decision has a single reason for refusal. Though couched in slightly different terms the essence is the same, in that the refusals identify the proposals as being inappropriate development in the Green Belt, and that there are no other considerations which would amount to the very special circumstances required to clearly outweigh the harm by inappropriateness and any other harm. However, no other harm beyond Green Belt harm is identified by the Councils. Other harm has been alleged by other parties and I deal with those matters later in this decision.

Decision

4. The appeals are allowed and planning permission is granted for:
 - (a) Appeal reference **APP/T3725/W/24/3347315** - the construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar Photovoltaics (PV) with co-located Battery Energy Storage System (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling at land to the south of Birmingham Road, Kenilworth in accordance with the terms of the application, Ref: W/23/1358, dated 13 September 2023, subject to the conditions set out in the attached annex.
 - (b) Appeal Reference **APP/Q4625/W/24/3347316** - the construction, operation and subsequent decommissioning of a renewable energy park comprising ground mounted Solar Photovoltaics (PV) with co-located Battery Energy Storage System (BESS) at the point of connection, together with associated infrastructure, access, landscaping and cabling at Land to the east of Holly Lane, Meer End, Solihull in accordance with the terms of the application, Ref: PL/2023/01952/PPFL, dated 13 September 2023, subject to the conditions set out in the attached annex.

¹ Holborn Studios v Hackney LBC and Bernard Wheatcroft v SoS for the Environment

² In Solihull the development plan includes the Solihull Local Plan, adopted in 2013, and the Balsall Heath Neighbourhood Development Plan, made in 2019.

In Warwick the development plan includes the Warwick District Local Plan, adopted in 2017, and the Kenilworth Neighbourhood Plan, made in 2018.

Main Issue

The main issue in the appeals is whether the proposed development would be inappropriate development in the Green Belt, and if so what effect on openness would result, and whether there are any other considerations which clearly outweigh the harm by inappropriateness, and any other harm, such that very special circumstances exist to justify the development.

Reasons

5. Since the decisions of the Councils were issued the National Planning Policy Framework (NPPF) has been updated (December 2024). This update includes the concept of Grey Belt land. Grey Belt is land in the Green Belt which is defined as *"comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a) (b) or (d) in paragraph 143. Grey Belt excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development."*
6. The Appellant advanced the argument at the hearing that neither of the 2 main parcels of land in the proposal strongly contribute to Green Belt purposes (a) (b) or (d). First I turn to those purposes. The Green Belt in this locality is extensive and the appeal site is, in its entirety, relatively remote from large built up areas. It would be too great a stretch to suggest that any part of the site would check the unrestricted sprawl of such areas. There is no strong contribution of the site parcels to this purpose (purpose a). Secondly, for similar reasons of distance to the nearest towns, there is no strong contribution made to the prevention of towns merging (purpose b). It is not suggested that the purpose dealing with the setting and special character of historic towns is in play here and the proposal does not make a strong contribution to this (purpose d).
7. With regard to the definition of Grey Belt land in the glossary to the NPPF it is therefore clear that this site does not contribute strongly to purposes a, b or d set out in paragraph 143. So on the face of it the land falls within the definition of being Grey Belt land. However, that is not the end of the determination of whether a particular development can be regarded as being not inappropriate.
8. Paragraph 155 of the NPPF indicates that commercial or other development (amongst others) in the Green Belt which utilises Grey Belt land should not be regarded as inappropriate subject to 4 criteria. The first of these (155a) is that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. This goes beyond a judgement relating to purposes a, b, and d. Purposes c and e are brought into play. It is therefore evident that a judgement has to be made on a case-by-case basis to determine whether or not a development site that falls within the definition of Grey Belt can be regarded as being not inappropriate, by reference to the guidance in paragraph 155. That is the approach taken by the Inspector in the appeal decision referred to me the day after the hearing³ and the approach is one with which I agree. I therefore deal with the relevant matters in the case before me here.

³ APP/V4630/W/24/3347424

9. The third purpose (purpose c) is to assist in safeguarding the countryside from encroachment. Both the western and eastern parcels of the site are in the countryside and both would see built development. Each would be perceived as changing the site from countryside to, at best, countryside including a solar array and BESS respectively. Fields would be largely covered by structures. In my judgement this is manifest encroachment into the countryside. The scale of the development would mean that the encroachment would be significant, more so in relation to the solar array than the BESS site. Overall the development would encroach upon an extensive tract of land. I consider that the land, because of its extent, makes a strong contribution to assisting in safeguarding the countryside from encroachment. The development would run counter to the intention of purpose c. This differentiates the case before me from that in the appeal noted above where encroachment was found to be negligible. Each case is fact specific.
10. Developments of this nature and extent (some 47 Ha in the western part of the site) are unlikely to find locations which would be suitable on derelict or other urban land. Additionally the BESS (about 3.4 Ha) requires a specific location where grid connection is possible. That may be possible on derelict land or other urban land, but the evidence in this case is that such land is not available in a location which would enable connection. Overall, therefore, the proposal cannot be regarded as of assistance in urban regeneration in Green Belt terms (purpose e).
11. In line with the guidance of paragraph 155 it is my judgement that the proposal would conflict with the purposes of including land within the Green Belt when those purposes are taken together because of the significance of the encroachment here. There would be fundamental undermining of the purposes of the remaining Green Belt. I have noted the assessment carried out in 2015 of broad area No 4 within the Green Belt covering Warwick District (and others) and the overall conclusion reached that the broad area makes a considerable contribution to all the purposes of the Green Belt⁴. But this study was of a very large area in which the appeal site sits. I have taken a more pragmatic approach to the contribution of the site in relation to the purposes.
12. Although the land to be developed can be defined as Grey Belt the 4 criteria within paragraph 155 must all be met for development to be judged as not inappropriate. That is clear from the wording of the paragraph. This development fails to meet criterion a. As a result I do not accept that this development should be regarded as being not inappropriate for that reason alone. However, for completeness I deal with the other criteria.
13. Paragraph 155b requires there to be a demonstrable unmet need for the type of development proposed. There is really no dispute that that is the case here. There is a myriad of publications and policy (which are not disputed and which it is unnecessary to rehearse in detail) which seek to substantially increase both the generation of renewable energy and battery storage. The requirement of paragraph 155b is undoubtedly met.
14. Paragraph 155c requires that the development would be in a sustainable location. This cross references paragraphs 110 and 115 of the NPPF. Those 2 paragraphs are concerned principally with patterns of growth, choice of transport modes, safe access and impacts on the transport network. The

⁴ Joint Green Belt Study 2015 by LUC, including Warwick DC.

thrust of the advice relates to reducing the need to travel, especially by private car. That is not a situation which has great relevance in this case. There would be traffic during the construction phase, and much lighter traffic during the operational phase of the development. This is not a development which would generate significant traffic flows throughout its life. Wherever located that would be so. There are no highway objections from the respective authorities here and I have no reason to doubt that paragraph 155c is adhered to in the circumstances of this case.

15. Paragraph 155d – the ‘Golden Rules’ do not apply in this case since they address major housing developments.
16. To summarise on the matter of inappropriateness, I accept that the land on which the proposal would be developed falls within the definition of Grey Belt set out in the glossary of the NPPF. However, I do not accept that it would meet the terms of NPPF paragraph 155. In particular it would conflict with the purposes of the Green Belt (taken together) in that it would fundamentally undermine the purpose which seeks to safeguard the countryside from encroachment. I therefore disagree with the position of the Appellant and find that the proposal would constitute inappropriate development. It falls to be considered as one of the projects anticipated in NPPF paragraph 160, which explains that elements of many renewable energy projects will comprise inappropriate development.

Impact on Green Belt openness

17. Openness can encompass both spatial and visual elements. I can quickly set aside the proposed underground cable between the solar array and the BESS as this would affect neither element. Openness would though, be affected by the solar array, and by the BESS.
18. The solar array on the western parcel of land is apparent from some areas more than others. Although the panels themselves would not extend above some 3m from ground level there would be other structures, such as fencing and inverters. These would be higher and/or of more solid construction. I cannot see that the extent of the development associated with the solar array could do anything other than have a significant impact on openness, notwithstanding that viewpoints may be limited in number. This is the spatial element of openness. But there are locations where visual openness would be reduced, albeit not over the whole site, and I mention here, for example, the southern portion of the land where it runs alongside Table Oak Lane. The impact on openness at the western parcel would be significant.
19. With regard to the BESS it is evident that currently open agricultural land would also be affected by the introduction of built development. The reduction in current spatial openness would be obvious. Visually the openness of the locality would be reduced, but by a modest amount. Overall, the impact on openness at this location would be of moderate magnitude.
20. In relation to both parcels I bear in mind that the proposal is for a time limited development of 40 years. After decommissioning the land would return to its former open nature. This factor reduces the weight to be given to the harm by loss of openness, but to a very limited degree. The 40 year period is significant in extent.

21. I can therefore summarise my conclusions on the matter of inappropriateness and openness. As explained above the proposal would be inappropriate development in the Green Belt. The development of the western and eastern parcels of land would reduce the openness of the Green Belt, to a significant and moderate degree respectively. The harm by inappropriateness and harm to openness attract substantial weight. Policy P17 of the Solihull Local Plan of 2013 is largely consistent with the NPPF. The proposed development in the Green Belt would be in conflict with this policy. Policy DS18 of the Warwick Local Plan of 2018 simply seeks to implement the Green Belt guidance of the NPPF. As such it is clear that the proposal is in conflict with this policy.
22. Before turning to the matters put forward in support of the proposal and the planning balance I will deal with other alleged harm raised by third party representations.

Landscape Character and Appearance

23. The appeal parcels lie in countryside which is characterised by its gently rolling topography, mixture of arable and pastoral agriculture, and variable field sizes often separated by hedgerows or tree belts. There are significant blocks of woodland and scattered development of villages, individual farms and properties, with some more intensive development such as the Jaguar Land Rover plant a short distance to the south. The larger settlement of Balsall Common is to the north of the western development parcel. The above characteristics are consistent with the Solihull Borough Landscape Character Assessment of 2016 and the Arden section of the Warwickshire Landscape Guidelines. It is common ground that none of the appeal site falls within any protected landscape, and that it cannot be defined as a valued landscape in NPPF terms.
24. The western parcel is well enclosed by vegetation for the most part. It has significant tree belts and hedgerows around most of its perimeter. The development of the solar array would introduce an alien type of built form into this landscape and this would inevitably alter its character. However, the change would be localised and of limited impact because of the well enclosed nature of the majority of the parcel. Individual components of the solar array would be largely contained within existing well-defined fields. In addition the proposals allow for the introduction of further extensive landscaping, which would mitigate the impact on the character of the area to a significant degree.
25. Visually the western parcel is open to view from relatively few public locations. There are no public rights of way across or within the land. Hence viewpoints would be restricted to public highways or private land. It is unlikely that there would be significant impact on pedestrian users of the surrounding highways, for the simple reason that the highways which give restricted views of the parcel are not conducive to walking. There would be some visual impact for recreational cyclists, but these would be fleeting and of minor significance. Motorists in the locality would be likely to be concentrating on safety aspects of their journey and views of the solar array would be short lived and peripheral. Mitigation in the form of landscaping would be extensive and would soften any visual impact over time.
26. The site of the BESS (the eastern parcel) includes the existing transmission pylon which is at the intended point of connection for the BESS substation. This in itself is a strong influence on the character of the locality, as is the

- adjacent A452 road. Although it is clear that the BESS and associated infrastructure would detract from the existing character, the detraction would be limited in extent and would affect a minor part of the overall area. The impact would be reduced over time with the establishment of new planting.
27. Visual impact of the BESS would be relatively marked in its initial stages because the eastern and southern boundaries are largely open at present. However there is significant woodland to the west and roadside vegetation to the north which would limit visual impact for road users. There would be a greater impact for users of the local public rights of way to the east, south and north, where initial views into the site after development would be significantly changed, and detrimental. Any recreational users of the Millenium Way, for example, would be faced with a stark outlook over industrial style containers and associated equipment. This visual harm would be of moderate temporal duration as any users of the footpaths soon reach positions where the visibility of the BESS would be eliminated. In addition I am satisfied that this visual intrusion would be mitigated successfully over time as the proposed landscaping took root.
28. Taking these matters into account it is my judgement that the proposed development would cause some harm to the character and appearance of the locality in the vicinity of both main development parcels in its early years. However, that harm would be mitigated by the relatively limited viewpoints and by the landscaping proposed. Hence I afford moderate negative weight to this harm at the time of implementation, but limited and minor harm when mitigation is established.
29. Policy P10 of the Solihull Local Plan seeks, amongst other things, to protect, enhance and restore landscape features in the Borough. This proposal would include significant enhancement in some areas which partially follows the objectives of the policy. In addition there would be an acknowledged gain to biodiversity which is in accordance with this policy. Hence I afford limited weight to any conflict with this policy. Policy BE2 of the Balsall Heath Neighbourhood Development Plan (NDP) has similar objectives for the landscape (amongst other matters) and I reach the same conclusion in relation to this aspect of the development plan – that any conflict with it is of limited weight. Policy BE4 of the NDP is supportive of renewable energy if satisfactorily integrated into its environs. This proposal accords with that aim. Finally, Policy NE4 of the Warwick Local Plan requires, in general, that development is sensitive to its location. Although there is a moderate degree of landscape harm as I have noted, the development has been designed to minimise its impact. Therefore the weight afforded to any conflict with this policy is minimised.

Safety at the BESS location

30. Concern has been expressed in relation to the safety of the BESS installation, which would include a significant number of containers containing racks of batteries, and other equipment. There was information given at the hearing in relation to the single fire which had occurred at an installation in Merseyside. I understand that this is the only fire episode in the UK to date. Furthermore that fire was in an installation which used a more volatile type of battery than that proposed here. I was informed that there were no casualties and no external damage.

31. It is notable that Warwickshire Fire and Rescue Service (WFRS) does not have any in principle objections to the proposal. A battery safety plan can be required by condition, and I was informed that BESS installations now include sophisticated automatic monitoring systems which are designed to deal with any problems. But in any event the type of battery proposed would minimise any potential for problems to occur. Should they do so it is not now disputed that the battery containers and other equipment follow the latest guidelines on spacing. In addition a secondary access to the site would be provided in case the principal access became unusable, and this satisfies the WFRS. Furthermore water storage is included within the proposal, and any water used to spray a fire would be contained on the site.
32. I fully acknowledge the concerns expressed by the nearest occupants to the west, both for their own wellbeing and that of users of their camping and caravan park. However, the information available to me leads me to be satisfied that there would be no unacceptable risk. The likelihood of fire would be minimised to the lowest possible level and there would be little likelihood of thermal runaway should a fire occur in any container.
33. I am aware of the appeal decision brought to my attention in which a BESS proposal was refused⁵ because the Inspector was not persuaded, in that case, of the safety of the proposal. That case has marked differences to the situation here, in particular the potential for impact on groundwater aquifers. In addition the spacing recommendations for containers have since changed and the fire service response appears to have been somewhat equivocal. Consequently I cannot accept that the case cited is so similar to the case before me that it can be given any material weight in the planning balance.

Highway Safety

34. There have been no in principle objections to the accesses proposed to either proposed development parcel. Highway safety is a concern of some local residents though, and I have given consideration to the representations made, in writing and at the hearing.
35. There would be an increase in traffic to the 2 parcels of the site during the construction phase and this would, inevitably, add to those vehicles using surrounding roads. But the construction phase would be, in relative terms, quite short. Whilst I acknowledge the increased potential for a reduction in safety (particularly at the Holly Lane/Table Oak Lane crossroads) I am also aware that there are no objections to the development from the respective highway authorities. On balance I take the view that any risks would not be of a magnitude which would justify withholding planning permission.
36. During the operational phase the traffic generation necessary to operate the scheme would be greatly reduced. This phase would not add materially to traffic on local highways. The concerns advanced in relation to safety on the A452 should there be an emergency at the BESS location are valid, but it can reasonably be expected that any such incident (and I have already indicated that I do not accept that the BESS would be unacceptably risky) would be properly handled by the emergency services.

⁵ AOP/U1105/W/23/3319803

37. For these reasons I am satisfied that there are no impediments to the proposed scheme on the grounds that it would be unacceptably harmful to highway safety. There is therefore no conflict with Balsall Heath Neighbourhood Development Plan (NDP) Policy BE.5.

Impact on Nearby Residents

38. Direct neighbours of this scheme are relatively few, but nonetheless they are entitled to expect that their living conditions would not be unacceptably harmed by the development.
39. It is undeniable that residents of properties along the eastern side of Holly Lane would have some change in outlook. I was grateful for the opportunity to visit Holly Grange during my accompanied site visit. This illustrated 2 key matters. First, that the solar array would be well contained in discrete blocks surrounded by vegetation. Secondly I am satisfied that it would be possible to mitigate the visual impact of the arrays to a degree where the outlook from neighbouring property would be reduced to an acceptable level. I do not suggest that this mitigation would be immediate, or that it would wholly remove the perception of the development. But in my judgement the impact on the outlook from these properties would not be so harmful that it should weigh against the grant of planning permission.
40. There is one close neighbour of the BESS site, at Springfield House, with its associated caravan and camping site. Again, I was grateful for the opportunity to visit this property. Springfield and its land is largely separated from the BESS site by a belt of woodland. The woodland has a significant understory of growth. My visit coincided with the time of year where maximum levels of visibility are offered. I agree that it would be possible, just, to perceive the BESS development in the area beyond the woodland. But the levels of screening are such that it would be an indistinct impression of development in the vicinity of an existing pylon. In my judgement this would not be unacceptably harmful to the conditions at Springfield House, or at the camping and caravan site.
41. A noise study has been submitted which demonstrates that any noise emitted from the BESS site (including the substation) would not cause disturbance at Springfield. The intervening woodland and distance between the locations leads me to accept that there would be no unacceptable noise immissions at Springfield.
42. Taken overall, therefore, it is my judgement that the proposed development, in its entirety, would not cause unacceptable harm to the living conditions of nearby residents. Therefore the proposal would not be in conflict with the following policies of the respective development plans:
- Solihull Local Plan Policy P14 (Amenity)
 - Balsall Heath NDP Policy BE2 c)
 - Warwick Local Plan Policy BE3 (Amenity)
 - Kenilworth NP Policy KP13c. and 13d.

Loss of Agricultural Land

43. I am aware that there is concern that the proposal would be located on what is currently open agricultural land. The undisputed evidence before me is that some 85% of the solar array land falls into the grades of 3b and 4. Hence it

does not fall within the definition of being best and most versatile land. Therefore a relatively small proportion (about 15%) of best and most versatile land would be utilised. In any event I recognise that the land could continue to be used as grazing land around and under the solar panels, and that in due course the land would be returned to full agricultural use (albeit that this would likely be 40 years in the future). The BESS site falls outside the definition of best and most versatile land in its entirety.

44. In view of the relatively small proportion of best and most versatile agricultural land which would be utilised in this case I am satisfied that there is no reason on these grounds to withhold planning permission.

Other considerations

45. At this point I turn to the other considerations which are advanced in support of the proposal, before undertaking the final planning balance.
46. There is no dispute about the need to generate more of the country's power from renewable sources. As I noted earlier, there is a plethora of policy and guidance which seeks to ensure that this occurs sooner rather than later. I mention just a few of them here.
47. First, the Climate Change Act of 2008 sets a legally binding target to reduce greenhouse gas emissions. This was followed by the declaration of an Environmental and Climate Change Emergency in 2019. At the same time the target reduction of emissions pursuant to the Climate Change Act was increased from 80% to 100% by 2050 (compared to 1990 levels). I agree that this requires major increases in renewable energy production. The fact that the proposal would generate about 25MW of power, and offset over 11000 tons of carbon dioxide emissions annually is a substantial factor in fact of the proposal.
48. Although renewable energy production has increased it has fallen behind the required levels if the country is to meet its targets. Solar energy production is significantly below the targets set in national guidance. This proposal would go some way to assisting in meeting those targets. This is a significant benefit.
49. The Clean Power 2030 Action Plan was published in December 2024. It is seeking to speed up delivery of renewable energy and grid connection. The driving forces behind the plan are the need for secure and affordable energy, the creation of new energy industries, and the reduction in greenhouse gas emissions. This proposal accords with its objectives.
50. The BESS would provide the opportunity for grid balancing and could be operated independently of the solar array. The ability to provide flexible input to the grid when needed is a major benefit of the proposal.
51. More locally, both Solihull and Warwick local authorities have declared climate emergencies and are seeking to become carbon neutral. There are similar objectives in the greater West Midlands area. It is not disputed that the authorities are falling well behind in their renewable energy targets. This solar and storage proposal would assist in progressing towards those targets. Policy P9 of the Solihull Local Plan in general is supportive of measures to tackle climate change, including the exploitation of renewable energy sources within the Borough. The proposal does not conflict with this objective. The limited impact of this proposal also means that it is not in conflict with the thrust of Warwick Local Plan Policy CC2 which affords in principle support to renewable energy.

52. It is important to note here that the proposed grid connection on the eastern parcel of the site has been agreed, and that there is an expectation that the connection could be made within 2 or 3 years. This contrasts with some other renewable schemes which have longer lead times. The availability of a grid connection in the near future is a significant benefit of this scheme.
53. Other matters which carry significant weight in favour of the proposal are the increase in biodiversity which would flow from the landscaping and other mitigation associated with the proposal, and the lack of alternative locations for the development which lie outside the Green Belt.
54. I accept that there would be some moderate benefit flowing from the proposals in economic terms, both in supplier industries and direct employment, as well as some benefits relating to farm diversification.
55. Although I have dealt with these other considerations in brief, it should not be misconstrued as suggesting that the requirement to provide renewable energy is to be treated lightly. Far from it. There is a serious and large-scale requirement to provide renewable energy if the country is to meet its legal obligations and make a proper contribution to addressing climate change.

The Planning Balance

56. Those factors which weigh against the proposed development can be summarised as:
- The inappropriate nature of the development in the Green Belt, and the impact on openness, which carries substantial weight, together with the allied conflict with the development plan set out above;
 - The harm to the character and appearance of the area, which carries moderate weight which would reduce over time. Conflict with the development plan in this respect is limited.
57. The benefits of the proposal which weigh in favour of the development can be summarised as:
- The urgent need to generate and store renewable energy in support of the national imperative for secure and affordable energy. This carries substantial weight;
 - The generation of renewable energy and storage capacity would contribute to the objectives of both Local Authorities and is significant;
 - The fact that there is a grid connection offer which means that the benefits of the solar generation and battery storage can be quickly realised. This is a matter of significant weight;
 - The assistance in addressing the negative impacts of climate change is a matter which carries significant positive weight;
 - The opportunity to bring about significant gains in biodiversity is of moderate positive weight.
 - There would be moderate to significant gains in economic activity and farm diversification.

The proposal in its entirety gains much support from the fact that it follows the thrust of development plan policies set out in this decision, in that it would provide crucial renewable energy and storage whilst minimising its impact.

58. Other factors which I have dealt with above weigh neither in favour nor against the grant of planning permission.
59. Taking the scheme as a whole it is my unequivocal judgement that the considerations in favour of the development clearly outweigh the harm to the Green Belt, and the other limited harm identified. This is my conclusion separately for the solar array and the BESS, and taking the scheme as a whole. Consequently the very special circumstances required to justify the grant of planning permission have been demonstrated.

Conditions

60. I turn now to the matter of conditions which are reasonable and necessary, and note that there is much agreement between the parties on these matters. I am grateful for the provision of the suggested list at the hearing.
61. To begin with the time limit for commencement of development I note that an extended period of 5 years is requested, in order to cater for any minor delay to grid connection implementation. That is reasonable in this case.
62. In order to ensure that the development follows the intended strategy a condition identifying the permitted plans is necessary. So too is a condition limiting the development to the intended 40 year span, with conditions requiring removal of the development at the end of the period, or sooner if the development is no longer in use.
63. Conditions designed to ensure a satisfactory form of development are necessary in relation to archaeological investigation and recording, construction environment management, landscaping, tree protection, landscape and ecological management, and construction traffic management. In addition pre and post development haulage route surveys are reasonable so that any damage to highways can be addressed.
64. In relation to the solar array it is necessary to ensure that development is carried out in accordance with the flood risk assessment provided, and with the glint and glare study, so that potential problems are avoided. In addition a condition to ensure any unexpected land contamination is dealt with properly is reasonable.
65. It is necessary to impose conditions in relation to the BESS which address drainage at the site, water storage, and a detailed safety management plan. It is also necessary to require compliance with the noise report provided to avoid nuisance and provide a satisfactory development, and for the same reason to provide details of a lighting scheme. I also agree that protection of the public footpath to the east of the BESS is necessary.

Overall Conclusion

66. For the reasons given above I conclude that these appeals should be allowed subject to necessary and reasonable conditions.

Philip Major

INSPECTOR

ANNEX - Schedule of Conditions

Conditions that apply to both parts of the development (Solihull solar array and Warwick BESS)

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

SLH01A-EXG-00-00-D-K006-P02 - Site Location Plan
SLH01A-EXG-04-00-D-K001-P0501 - Site Layout Plan Full
SLH01A-EXG-04-00-D-K002-P03 - Site Layout Plan Solar
SLH01A-EXG-04-00-D-K003-P0401 - Site Layout Plan BESS and Substation
SLH01A-EXG-05-ZZ-D-K001-P01 - Battery Unit Plan & Elevations
SLH01A-EXG-05-ZZ-D-K002-P01 - Typical MV Inverter Unit Elevation
SLH01A-EXG-05-ZZ-D-K003-P01 - Substation Building Plan & Elevations
SLH01A-EXG-05-ZZ-D-K004-P01 - Grid Transformer Plan & Elevations
SLH01A-EXG-05-ZZ-D-K005-P01 - RMU & Control Enclosures Plan & Elevations
SLH01A-EXG-05-ZZ-D-K006-P01 - AUX Transformer Plan & Elevations
SLH01A-EXG-05-ZZ-D-K007-P01 - Substation Fence and Access Detail
SLH01A-EXG-05-ZZ-D-K008-P01 - BESS CCTV, Fence & Access Detail
SLH01A-EXG-05-ZZ-D-K009-P01 - 132kV Switchgear Plan & Elevation
SLH01A-EXG-05-ZZ-D-K010-P01 - Typical Solar Panel Elevations
SLH01A-EXG-05-ZZ-D-K011-P01 - Typical Solar Farm Deer Fence and CCTV
SLH01A-EXG-05-ZZ-D-K012-P01 - 33kV Cable Connection and Control Room
SLH01A-EXG-05-ZZ-D-K013-P01 - Typical 33kV Transformer
SLH01A-EXG-05-ZZ-D-K014-P01 - Typical DNO Control Room Plan and Elevations
SLH01A-EXG-05-ZZ-D-K015-P01 - Typical Ancillary Substation Building Plan and Elevations
SLH01A-EXG-05-ZZ-D-K016-P01 - Water Storage Tank Elevations
P21-2535_07H-01 - Landscape Mitigation Plan Sheet 1 of 2 (Solar)
P21-2535_07H-02 - Landscape Mitigation Plan Sheet 2 of 2 (BESS)

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 or the BESS is connected and imported and exported from and to the National Grid (the 'First Export Date'). Written confirmation of the First Export Date shall be provided to Solihull Metropolitan Borough Council in respect of the solar and Warwick District Council in respect of the Battery Energy Storage System no later than 1 calendar month after the event. At the end of this 40-year period, the development shall be removed, and the land restored to its previous agricultural use in accordance with details that shall have been previously submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar and Warwick District Council in respect of the Battery Energy Storage System, in accordance with condition 10.

4. 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 Solihull

Metropolitan Borough Council in respect of the solar and Warwick District Council in respect of the Battery Energy Storage System.

- 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 Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System.
- c) An Archaeological Mitigation Strategy (AMS) document (including a written scheme of investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System. 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.
- d) 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.

5. The development hereby permitted, including site clearance work, shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System. The approved CEMP shall thereafter be implemented in accordance with the approved details.

6. Notwithstanding the submitted details, a detailed planting scheme shall be submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System before development commences. The planting scheme shall be based on native species and include planting timescales.

Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System seriously damaged, defective or diseased shall be replaced in the next planting season with another of the same size and species as that originally planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations.

The development shall be implemented in accordance with the approved detailed planting scheme and thereafter retained and maintained in accordance with the Landscape and Ecological Management Plan approved pursuant to condition 7 of this permission.

7. The development hereby permitted shall not commence until a detailed Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar

array and Warwick District Council in respect of the Battery Energy Storage System. The LEMP shall include detailed design for the proposed bund, details of all new planting (including species used and sourcing of plants) and maintenance arrangements for the planting. The plan shall also include details of habitat enhancement/creation measures and management, such as native species planting, wildflower grassland creation, woodland and hedgerow creation/enhancement, and provision of habitat for protected and notable species (including location, number and type of bat and bird boxes, location of log piles). Such approved measures shall thereafter be implemented in full and maintained in accordance with the approved LEMP.

8. Notwithstanding the submitted information, a final Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System before development commences. The CTMP shall provide for:

- construction traffic routing to and from the site and measures to manage the arrival and departure of HGVs at the site;
- the parking of vehicles of site operatives and visitors;
- site working hours and delivery times;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of a security hoarding including decorative displays;
- wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the development site does not carry mud or deposit other materials onto the public highway;
- measures to control the emission of dust and dirt during construction, together with any details in relation to noise and vibration; and
- a scheme for recycling/disposing of waste resulting from construction works.

The development hereby permitted shall only proceed in strict accordance with the approved CTMP.

9. Prior to the commencement of the development hereby permitted (including all preparatory work), a detailed and proportionate Tree Protection Plan and Arboricultural Method Statement, together referred to as the scheme of protection, detailing the treatment of historic soil compaction and how all the retained trees (both within the site and outside the site where they might exert an influence upon, or be impacted by, the development) are to be protected from harm during the development shall be submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System. The Tree Protection Plan should be overlaid upon the approved plan of the development. The development thereafter shall be implemented in strict accordance with the approved scheme of protection. Where the approved details require the installation of protective fencing or ground protection, these shall be put in place before any development takes place, and before any equipment, machinery or materials are brought on to the site; and shall be retained until these have been removed from the site, following the completion of the relevant part of the development. Nothing shall be stored or placed in any area fenced in accordance with this condition, and the ground levels

within those areas shall not be altered, nor shall any excavation be made, without the written approval of Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System.

10. No later than twelve months prior to the expiry of this planning permission, or if the development ceases to export electricity to the grid for a continuous period of twelve months, whichever is the sooner, the operator shall notify Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System in writing within 10 working days of the end of that twelve month period and within three months of the operator notification to the local planning authorities, a scheme shall be submitted to Solihull Metropolitan Borough Council in respect of the solar array and Warwick District Council in respect of the Battery Energy Storage System for written approval for the removal of the development and restoration of the site to agricultural use.

The details shall include the following:

- a) a programme of works;
- b) a method statement for the decommissioning, dismantling and removal of all equipment including associated above ground works/ surfacing and foundations below ground;
- c) details of any items to be retained on site;
- d) a method statement for restoring the land to agriculture;
- e) timescale for the decommissioning, removal and reinstatement of the land;
- f) a method statement for the disposal/recycling of redundant equipment/structures and any associated infrastructure.

The approved scheme of restoration shall be undertaken in accordance with the approved details and timescales.

Conditions that solely affect the solar array and cable element in Solihull

11. No development shall take place on site until a haulage route pre-construction dilapidation survey has been submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar array. A post-construction dilapidation survey should also be submitted to and approved in writing by Solihull Metropolitan Borough Council in respect of the solar array within 6 months of the export date secured by Condition 3. Any identified defects to the construction route shall be repaired within 6 months of the approval of the post-construction dilapidation survey in accordance with a scheme to be submitted to and approved in writing by Solihull Metropolitan Borough Council.

12. The solar array shall not become operational until details of a scheme indicating all external light fittings and external light columns has been submitted to and approved by Solihull Metropolitan Borough Council. The scheme shall include details of the means by which lighting will be minimised at night across the whole site, and be controlled in order to minimise impact on emerging and foraging bats. A Lux plan overlaid onto a habitat plan should be provided to demonstrate this. The development shall not be carried out otherwise than in full accordance with such approved details.

13. The solar array shall be implemented in accordance with the submitted flood risk assessment (ref 'Holly Lane Energy Park, Land at Meer End, Solihull, Flood Risk Assessment and Drainage Strategy' Ref: P21-2535 dated August 2023, Pegasus Group) and the following mitigation measures it details:

- There shall be no overall ground raising within flood zones 2 or 3;
- Solar panels shall be raised above an estimated 1 in 1,000 year fluvial flood level where located in Flood Zone 2 or 3;
- All ancillary buildings and units shall be located within flood zone 1 with only fencing and solar arrays sited in flood zones 2 and 3;
- All fencing within flood zones 2 and 3 shall have a minimum mesh spacing of 150mm.

14. In the event that contamination is found at any time when carrying out the solar array element of the approved development that was not previously identified it must be reported immediately to Solihull Metropolitan Borough Council. The applicant is advised to immediately seek the advice of an independent geo-environmental consultant experienced in contaminated land risk assessment, including intrusive investigations and remediation.

No further development should be undertaken in the areas of suspected contamination, other than that work required to be carried out as part of an approved remediation scheme, unless otherwise agreed by Solihull Metropolitan Borough Council, until requirements 1 to 4 below have been complied with:

(1) Detailed Site Investigation

Detailed site investigation and risk assessment must be undertaken by competent persons in accordance with the Environment Agency's 'Land Contamination: Risk Management' guidance and a written report of the findings produced. The risk assessment must be designed to assess the nature and extent of suspected contamination and approved by Solihull Metropolitan Borough Council prior to any further development taking place.

(2) Submission of a Remediation Scheme

Where identified as necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of Solihull Metropolitan Borough Council in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(3) Implementation of the Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the re-commencement of any site works in the areas of suspected contamination, other than that work required to carry out remediation, unless otherwise agreed in writing by Solihull Metropolitan Borough Council. Remediation measures implemented must be maintained thereafter for the lifetime of the development.

(4) Submission of a Verification Report

Following completion of measures identified in the approved remediation scheme a verification report (otherwise known as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval of Solihull Metropolitan Borough Council prior to the occupation of any buildings on site.

15. The solar array element of the development hereby approved shall be carried out in complete accordance with the Arboricultural Impact Assessment (dated June 2024) submitted in support of the application.

16. The solar array element of the development hereby permitted shall be carried out strictly in accordance with the mitigation proposals as set out in the Solar Photovoltaic Glint & Glare Study produced by Pager Power and dated August 2023. Once implemented the mitigation measures shall be retained thereafter and shall not be removed or altered in any way without the prior written approval of Solihull Metropolitan Borough Council.

17. No works of decommissioning of the solar array shall be undertaken until a Decommissioning Traffic Management Plan has been submitted to and approved by the Solihull Metropolitan Borough Council. The plan shall contain details of:

- HGV routeing.
- Temporary warning signage to be implemented on the approaches to the highway accesses to the site.
- Measures to prevent mud and debris on the public highway.
- Suitable areas for the parking of contractors and visitors and the loading and storage of materials.

Conditions that solely affect the BESS and cable element in Warwick

18. The Battery Energy Storage System (BESS) element of the development shall be carried out and provided in accordance with the 'Technical Information Note: Drainage' prepared by Raincloud dated June 2024 and the Flood Risk Assessment prepared by Pegasus Group dated August 2023 (Ref: P21-2535 Version 3).

No operational use of the Battery Energy Storage System shall take place until a Verification Report for the installed surface water drainage scheme of the substation and Battery Energy Storage System as well as a management and maintenance plan for the installed surface water drainage infrastructure have been submitted to and approved in writing by Warwick District Council.

The details of the verification report shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles;
2. Any as-built drawings and accompanying photographs;
3. Results of any performance testing undertaken as a part of the application process (if requested);
4. Copies of any statutory approvals, such as land drainage consent for discharges, which have been requested;
5. Confirmation that the system is free from defects, damage and foreign objects.

The details in the management and maintenance plan shall include:

1. The name of the party responsible, including contact name, address, email address and phone number;

2. Plans showing the locations of features requiring maintenance and how these should be accessed;
3. Details on how surface water and each relevant feature shall be maintained and managed for the lifetime of the development;
4. Being of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.

The surface water infrastructure shall be maintained in accordance with the approved management and maintenance plan for the lifetime of the development.

19. The Battery Energy Storage System units hereby permitted shall not be brought into operational use until the proposed on-site water tanks have been provided. The water tanks shall thereafter be retained and be available for use for the operational lifetime of the battery energy storage units.

20. Notwithstanding the submitted information, works to form the Battery Energy Storage System (BESS) shall not commence until a final Detailed Battery Safety Management Plan (DBSMP) has been submitted to and approved in writing by the Warwick District Council. The final DBSMP shall prescribe measures to facilitate safety during the construction, operation and decommissioning of the battery storage system. The BESS shall be operated in accordance with the approved DBSMP at all times.

21. Noise emissions at the boundary of the Battery Energy Storage System site shall not at any time during its operation exceed those measured and detailed in the Noise Impact Assessment Report prepared by Arcus Consultancy Service dated July 2023 (Ref: P21-2535).

22. Before the Battery Energy Storage System is brought into use a scheme of external lighting shall be submitted to and approved in writing by Warwick District Council. The scheme shall be implemented as approved and thereafter be retained during the operational phase of the development.

23. No fencing shall be erected on or within 1 metre of public footpath K4 during construction works of the Battery Energy Storage System (BESS) element of the development hereby permitted (unless closed by legal order). Prior to the commencement of any works on the Battery Energy Storage System (BESS) element of the development hereby permitted involving disturbance or alteration to the surface of public footpath K4, the developer shall first obtain all necessary consents from Warwickshire County Council as the local highway authority. Any damage or flooding of footpath K4 resulting from the carrying out of development operations shall be made good and remediated before the development is first brought into use, in accordance with details that have first been submitted to and approved in writing by Warwick District Council.

APPEARANCES

FOR THE APPELLANT:

Ms T Osmund-Smith	Counsel, instructed by Mr A Mott, Exagen
Mr N Cusson BSc(Hons) DipUP MRTPI	Pegasus Group, spoke on overall planning matters
Mr R Chanas MSc CMLI	Spoke on landscape matters
Mrs K Evans BEng HND	Spoke on highways matters
Mr J Tough MSc BSc(Hons) CSci CEnv	Spoke on BESS safety matters

FOR THE LOCAL PLANNING AUTHORITIES:

For Solihull: Mr L Osborne	Solihull Metropolitan Borough Council. Team Leader – Major Projects
For Warwick: Mr A Walker	Principal Planner, Warwick District Council

INTERESTED PERSONS:

Mrs J Muirhead	Local resident
Mr M Green	Local resident