

Appeal reference: 6001285
Application ref: H19-0329-24
Address: Land east of Guanockgate Road, Sutton St Edmund
LPA: South Holland District Council

Council's response to the introduction of the NPPF 2026

1. Purpose and main implications

The Council has reviewed its decision notice dated 9th May 2025 and its hearing statement against the August 2026 National Planning Policy Framework.

The new Framework reinforces the policy basis for examining the agricultural matters identified in the refusal reason: the quality of the land affected, whether poorer-quality land could be used and the justification for the proposed use of agricultural land. These matters are now expressly addressed in national decision-making policy N2.

The Council maintains its agricultural objection. This response explains its continuing basis, identifies the parts of the earlier case that require qualification and clarifies the policies relevant to the hearing.

Where this response differs from the hearing statement, it represents the Council's updated position.

2. How the new Framework supports the agricultural grounds for refusal

The refusal reason questioned whether the use of a substantial area of BMV land had been justified, whether poorer-quality land had been adequately considered and whether the scheme required such an extensive land take.

N2(1)(b), page 89, confirms that these are relevant matters for the decision. It requires consideration of agricultural land quality, including its grade, and the use of poorer-quality land where possible when significant agricultural development is necessary.

The Council's concerns are therefore supported by national decision-making policy. The importance of this is that agricultural quality and the choice of land remain matters requiring assessment alongside the strong support for renewable energy.

Agricultural element of the refusal reason	Continuing relevance under NPPF 2026
The substantial area of BMV land affected	N2 expressly requires agricultural quality and grade to be considered. The extent and duration of the effects remain relevant to the weight given to them.

Whether the use of this agricultural land has been justified	N2 supports examination of whether poorer-quality land could be used where possible.
The robustness of the alternative site assessment	The assessment is evidence relied upon to justify the site choice. Its assumptions and conclusions remain open to scrutiny when applying N2.
The extent of land take relative to the scheme's output	The full agricultural effects of the layout, including overplanting and panel spacing, remain relevant. EN-3 supports assessment of the development's physical extent. N2 remains relevant to the agricultural effects of that footprint.
The use of agricultural rather than previously developed land	This remains relevant to site selection under EN-3 and Planning Practice Guidance, although agricultural land is not excluded from solar development. This is also within the scope of assessment required by N2.

3. N2 and EN-3: a consistent basis for assessing agricultural land

The Council considers that **N2(1)(b)** and **EN-3 paragraph 2.10.21** should be read together.

N2 provides the national decision-making policy for agricultural land quality. EN-3 provides the solar-specific context: suitable previously developed land should be used where possible and, where agricultural land is necessary, poorer-quality land should be preferred, avoiding BMV where possible.

EN-3 paragraph 2.10.23 also expects applicants to explain their choice of site. The alignment between these provisions supports the Council's request for a convincing explanation of why this land has been selected. The general need for renewable energy does not, by itself, answer that site-specific question.

The Council recognises EN-3's qualification that land type should not predominate in site selection. Grid capacity, connection feasibility, availability and other environmental constraints must also be considered. The Council's case is that agricultural quality must be properly addressed within that assessment.

The publication of N2 therefore reinforces the policy basis for the agricultural concerns developed in **section 8 and sections 9.2–9.3 of the hearing statement, pages 13–14 and 21–29. Annex C, page 117**, also identifies the information needed to demonstrate compliance with relevant aspects of N2.

4. Application to the site and the alternatives assessment

The appeal concerns approximately 74.3 hectares within South Holland, forming part of the wider scheme of approximately 140.5 hectares. The Council's concern is the restriction on the arable use and agricultural versatility of Grade 2 and Grade 3a land over the proposed 40-year operating period.

Grazing and eventual restoration are relevant considerations. They do not remove the need to assess the agricultural/arable effects upon BMV during operation. The Council's case concerns those effects and their duration.

The Council retains the concerns identified in **section 9.3, pages 24–29**, about the search area, the approximately 50-hectare minimum site size and the reliability of comparisons between agricultural grades.

The applicant's initial search sought to avoid Grade 1 land. The Council acknowledges the merit of avoiding the highest agricultural grade. However, Grades 2 and 3a also fall within BMV, as confirmed by the **NPPF glossary, page 103**. Avoiding Grade 1 alone does not establish that poorer-quality land has been used where possible.

Several alternatives are described only as Grade 3 and potentially of equivalent or poorer quality. The Council considers that the reliability of those comparisons, together with the reasons for rejecting those sites, warrants examination.

The Council's evidence of nearby non-BMV land is relevant to local variation in agricultural quality. Its existence does not alone establish a deliverable alternative, but it supports examining whether the search adequately reflects that variation.

For clarity, the search uses a corridor extending approximately 1 kilometre either side of the relevant electricity line. The Council seeks a proportionate assessment of realistic alternatives; it does not require an unrestricted search or proof that poorer land does not exist anywhere.

5. Overplanting and the extent of agricultural land take

The Council maintains its objection to the extent of agricultural land affected by the proposal, as set out in the refusal reason and section 9.5 of the hearing statement, pages 31–34. Its concern is that the proposed footprint, including overplanting and panel spacing, would restrict the arable use of a substantial area of BMV land for the development's lifetime.

N2(1)(b), page 89, confirms that agricultural land quality and the use of poorer-quality land where possible remain relevant to the decision. These considerations apply to the full footprint of the proposal, including any additional land affected by overplanting.

The Council considers that the evidence has not adequately justified the agricultural effects of the proposed extent of development. It asks the Inspector to examine the explanation for the footprint and weigh those effects against the benefits delivered by the layout.

This approach is consistent with **EN-3 paragraphs 2.10.47–2.10.48 and footnote 98**, which support justified overplanting while requiring assessment of the development's full extent and effects. **Ross v Secretary of State [2025] EWHC 1183 (Admin), paragraph 82**, likewise confirms that the physical impacts of a proposal must be assessed against its benefits.

The assessment must therefore address both the additional generation achieved through overplanting and the agricultural consequences of the land occupied. The functions served by panel spacing, grazing, biodiversity measures, drainage buffers and battery storage should form part of that assessment.

N2 does not introduce a separate restriction on overplanting. The Council's objection concerns its agricultural consequences in this particular scheme. References in the hearing statement to

impacts having to be “unavoidable” should be read as a concern about whether those effects are adequately justified, rather than as a separate policy test.

The Council’s assessment of that harm against the proposal’s benefits is set out in section 9 below.

6. Restoration and protection of soils

W3(3), page 49, requires decommissioning and restoration proposals, including how they would be implemented, to accompany applications for time-limited development.

The appellant’s Outline Soil Management Plan provides such proposals. Section 13, pages 33–36, describes the removal of infrastructure and reinstatement of soils, with the stated objective of returning the land to its original agricultural grade and condition.

The Council considers that the restoration objective should be supported by clear arrangements for verification, aftercare and remedial work. The treatment of deeper cables and the reinstatement of the correct soil depths should also be clarified. These matters should be addressed through the submitted information and appropriate conditions.

The Council does not allege that restoration proposals are absent. Its concern is to ensure that the commitments relied upon are sufficiently clear and secured. Eventual restoration does not remove the separate agricultural effects arising from the restriction on arable use during the development’s lifetime, which remain relevant under N2.

7. Food security: the element no longer pursued

Annex A, paragraph 10, page 100, identifies the Written Ministerial Statement of 15th May 2024 on solar development, food security and BMV land among the documents whose planning content has been incorporated or superseded.

The Council no longer relies on that Statement as an additional policy test. It also no longer pursues the allegation in the first paragraph of the refusal reason that this proposal would itself threaten national food security and, consequently, national security.

The corresponding argument in **section 9.4, pages 29–31**, and its repetition elsewhere in the hearing statement are superseded by this response. The February 2025 ministerial correspondence does not provide a separate basis for applying a different test from the published Framework.

The agricultural objection remains for the reasons explained above.

8. Status of the policies relied upon in Reason for Refusal and Hearing statement

Policy or document	Position going into the hearing
Local Plan Policy 1	Remains part of the development plan. The Council does not pursue countryside location as a separate objection to energy

	infrastructure, which S5(1)(a), page 25, expressly supports in principle.
Local Plan Policy 31(B)(4)	Agricultural land take remains relevant. Policy 31's 'no significant harm' requirement carries very limited weight where it conflicts with the balance required by S5 (Annex A, paragraph 2, page 99)
NPPF December 2024, including paragraph 187	Replaced. The agricultural objection is now assessed principally under N2, with S5 and W3 governing the balance.
December 2025 draft NPPF	Superseded by the published August 2026 Framework. The discussion of limited draft weight on pages 16–19 of the hearing statement no longer applies.
Written Ministerial Statement, 15 May 2024	No longer relied upon as an additional planning policy test, in light of Annex A, paragraph 10.
EN-1 and EN-3	Remain relevant material considerations. The published 2025 versions should be used. The earlier description of updated EN-3 as carrying only draft weight is no longer current.
Planning Practice Guidance, paragraph 013, reference 5-013-20150327	Remains relevant to agricultural site selection, continued agricultural use, biodiversity and restoration. It supports application of the current NPPF.

The continuing role of relevant national policy statements and Planning Practice Guidance is recognised by **NPPF paragraphs 13–14, page 4**. The Council relies on their agricultural provisions consistently with the new national decision-making policies.

9. Updated planning balance and conclusion

The Council has reconsidered its reason for refusal in light of NPPF 2026 and maintains its objection on agricultural grounds. Applying S5(1)(a), page 25, the Council considers that the agricultural harm identified below substantially outweighs the proposal's benefits.

Benefits of the proposal

The Council gives substantial weight to the proposal's contribution to renewable energy generation, energy security and the transition to net zero, in accordance with W3(1), page 49. That support does not resolve the Council's concerns about the extent of BMV land occupied by this particular scheme. The justification for the proposed footprint, including overplanting and panel spacing, remains disputed and is considered alongside the scheme's benefits in the overall balance.

The Council also takes account of the battery storage, biodiversity enhancements, farm diversification and other economic benefits. These form part of the benefits of the full scheme and have been considered in reaching its conclusion.

Agricultural harm and the justification for using this land

The Council gives substantial adverse weight to the restriction on arable use of the Grade 2 and Grade 3a land within the approximately 74.3-hectare appeal site in South Holland over the proposed 40-year operating period. The concern arises from the combination of agricultural quality, the extent of land affected and the lengthy restriction on its arable use.

N2(1)(b), page 89, expressly requires agricultural quality to be considered and poorer-quality land to be used where possible. Read with EN-3, it supports examination of the applicant's choice of land.

The Council considers that the site-selection evidence has not adequately demonstrated that this preference has been met. Its concerns relate to the justification for the search area and minimum site size, and the reliability of agricultural-quality comparisons. The Council also remains concerned that the agricultural effects of the proposed footprint have not been adequately justified by the explanation of the layout and the benefits it delivers.

These matters concern the justification for the agricultural harm. They are not counted as separate physical harms in addition to the land affected. Nor does the Council assume that the existence of poorer-quality land nearby establishes a suitable and available alternative.

Restriction on arable use and eventual restoration

The Council's concern is the restriction on the arable use of BMV land for the proposed 40-year operating period. Although sheep grazing would retain an agricultural use, it would not preserve the ability to use the land beneath and between the arrays for the range of arable crops it could otherwise support.

The Outline Soil Management Plan provides for eventual restoration, supported by appropriate conditions. Those measures address the condition and use of the land after decommissioning. They do not remove the restriction on arable use during operation.

The Council therefore considers that the extent, quality and duration of the arable land affected remain substantial considerations in the planning balance under N2. This concern remains even where grazing takes place and successful restoration is secured.

Overall conclusion

The Council has reassessed the proposal under S5(1)(a), page 25, giving substantial weight to the relevant renewable energy benefits under W3, page 49, and taking account of the scheme's other benefits.

The Council considers that the scale, agricultural quality and duration of the land affected give rise to substantial harm through the restriction on arable use. Sheep grazing and eventual restoration have been considered, but neither removes that restriction during the proposed 40-year operating period.

The Council remains unsatisfied that the site-selection evidence adequately addresses the preference for poorer-quality land under N2(1)(b), page 89. It also considers that the agricultural effects of the proposed footprint, including overplanting and panel spacing, have not been adequately justified against the benefits delivered by the full scheme.

Taking these matters together, the Council considers that the agricultural harm substantially outweighs the proposal's benefits. This conclusion applies the balance required by S5 and W3, rather than treating Policy 31's "no significant harm" requirement as the threshold for refusal.

The Council therefore maintains the agricultural grounds within its reason for refusal and respectfully asks that the appeal be dismissed. Its principal national policy basis is N2(1)(b), read alongside the relevant provisions of EN-3 and Planning Practice Guidance, within the overall balance required by S5 and W3.

The separate allegation of a threat to national food security and national security is no longer pursued. The Council's conclusion rests on the agricultural effects and the justification for the proposed use of land.