



PINS Ref: 6001285

LPA Ref: H19-0329-24

TOWN AND COUNTRY PLANNING ACT 1990

HEARING PROCEDURE

APPEAL BY

**Pathfinder Clean Energy UK Dev Ltd at Land east of Guanockgate Road, Nr. Sutton St
Edmund, Lincolnshire, PE13 4PY**

STATEMENT OF CASE FOR THE LOCAL PLANNING AUTHORITY

Enclosures:

- Hearing Statement
- Conditions recommended by the Local Planning Authority if the appeal is allowed
- References

South Holland District Council
Council Offices
Priory Road
Spalding
Lincs
PE11 2XE

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1.0 Background

This appeal relates to the refusal of planning permission for a solar photovoltaic (PV) development with associated infrastructure, covering approximately 140 ha of land, of which 74.3 ha is within South Holland. The application was refused on 9th May 2025 by South Holland District Council (SHDC) due to concerns over the loss of Best and Most Versatile (BMV) agricultural land, food and national security, necessity of land use, alternatives assessment, and proportionality of land take.

The LPA considers the appeal to be appropriately submitted as a hearing, given:

- The scale and complexity of the development.
- The material planning considerations in dispute, includes BMV land, food security, and renewable energy benefits; and
- The requirement for detailed discussion of policy, case law, and technical evidence that cannot be fully addressed through written representations alone.

Overview

The Local Planning Authority considers that the applicant has failed to demonstrate that the proposed use of agricultural land is necessary or that poorer quality land has been preferred to higher quality land, as required by national and local policy.

The proposal is founded on an inadequate and methodologically flawed site assessment, which lacks transparency, relies on selective assumptions, and fails to robustly test reasonable alternatives. In parallel, the extent of overplanting and array spacing has not been justified by operational or viability evidence, resulting in an avoidable and excessive land take and the unnecessary loss of Best and Most Versatile agricultural land. The cessation of arable production for an operational period of approximately 42 years is a material planning consideration, given national and local policy direction to safeguard higher-quality agricultural land.

In the absence of clear evidence that soil resources would be preserved or enhanced, the Local Planning Authority reasonably maintains concerns regarding irreversible agricultural harm and the implications for long-term food security.

2.0 Introduction

This statement is submitted on behalf of the South Holland District Council (the LPA) in respect of the appeal relating to the proposed solar farm at Land East of Guanockgate Road Sutton St Edmund. It sets out the LPA's position on the principal planning matters

in dispute and provides the Inspector with the reasoning underpinning the Council's decision to refuse planning permission.

The LPA recognises that renewable energy development, including solar photovoltaic (PV) schemes, is strongly supported by national policy. Such development contributes materially to the UK's net-zero commitments, energy security objectives, and climate change mitigation strategies, including the Net Zero Strategy (2021), Clean Power 2030, and relevant provisions within the National Planning Policy Framework (2024) and National Policy Statements EN-1 and EN-3. As such, the LPA agrees that significant weight should be afforded to this matter in the planning balance and in the determination of this appeal.

However, the LPA maintains that the proposed development raises significant planning concerns that outweigh the benefits set out above. These concerns primarily relate to the loss/removal of Best and Most Versatile (BMV) agricultural land from arable production, impacts on food security and national security, the limited scope of alternative site assessment, and the proportionality of land take relative to scheme output. The LPA also considers the landscape and visual impacts associated with the scheme, which are material despite not representing a reason for refusal.

The LPA has prepared this statement to provide a clear, balanced, and evidence-based account of its position. It acknowledges the importance of renewable energy benefits while making it clear that the scale of the proposed development, combined with the unjustified loss of high-quality arable agricultural land, materially outweighs these benefits. The LPA respectfully invites the Inspector to consider this evidence in determining whether the appeal scheme represents sustainable development in accordance with national and local policy.

3.0 Site Description

The proposed application site consists of approximately 140.5 hectares of agricultural land, the site falls across the jurisdiction of both South Holland District Council (SHDC) and Fenland District Council (FDC) with approximately 66.2 hectares of the site within FDC and around 74.3 hectares within SHDC. For Clarity, this statement relates only to the part of the application site located within the administrative boundaries of South Holland.

The site is bound by Guanockgate Road to the west with the junction of Elloe Bank and Broad Drove West at the northeast of the site. Several drains maintained by the North Level District (NLD) Internal Drainage Board (IDB) run across the site. The site is surrounded by agricultural land on all other sides.

A public right of way (PRoW) intersects the site along Elloe Bank it passes through the site in a west to east direction.

The entire site is located within the countryside which is shown on the South East Lincolnshire Policies Map. The application site is also located within Flood Zone 3 in accordance with Environment Agency maps for planning.

The land is currently used for agricultural purposes and highly visible across the flat fenland landscape.

4.0 Proposed Development

The proposed development is for Temporary ground mounted solar photovoltaic (PV) farm with battery storage, substation and associated works. The development is for the installation and operation of a ground-mounted solar farm of circa 49.9MW that will generate and deliver electrical power to the local distribution network. Whilst this is the output cap, in reality the scheme will be able to reach a maximum output of 116MW, 86MW coming from Solar Arrays. The proposal also includes a Battery Energy Storage System comprising 30MW housed in 38 containers.

The site extends approximately 140ha across South Holland and Fenland District and is made up almost entirely of best and most versatile agricultural land. With a mix of grade 2 and 3a noted by the site-specific report. Maff Maps (DEFRA) suggest the entire area is grade 2.

The scheme seeks permission to be operational for up to 40 years, with an additional year each for construction and decommissioning, totalling 42 years.

Solar Arrays - These consists of solar PV panels organised into arrays alongside ancillary infrastructure. The height of the solar arrays will be approximately up to 3.5 metres from ground level to the top of the back of the panel frame. The lowest edge of the panels will be raised above ground by around 0.8 metres. The applicant confirms that there is a generous separation (18% over standard) to allow for the grazing of live stock.

Capacity - The proposal is for up to 49.9MW capacity from the solar arrays and an additional storage capacity of 30MW from the Battery Energy Storage System (BESS). However, there is also contingency overplanting meaning that the total output from solar array is 86MW, giving the scheme a potential output of 116MW.

The application site is proposed to be treated by 2.0m high wire mesh deer fence and access into and out of the site will be via existing site accesses off Guanockgate Road to

the west of the site. The application includes additional landscaping and biodiversity measures. A public right of way runs through the site.

5.0 Planning Policy and legislative Framework

Development Plan – South East Lincolnshire Local Plan 2019

- 01 - Spatial Strategy
- 02 - Development Management
- 03 - Design of New Development
- 04 - Approach to Flood Risk
- 28 - The Natural Environment
- 29 - The Historic Environment
- 30 - Pollution
- 31 - Climate Change and Renewable and Low Carbon Energy
- 32 - Community, Health and Well-being
- 33 - Delivering a More Sustainable Transport Network

National Planning Policy Framework, December 2024

- Section 2 - Achieving sustainable development
- Section 4 - Decision-Making
- Section 8 - Promoting healthy and safe communities
- Section 9 - Promoting sustainable transport
- Section 12 - Achieving well-designed places
- Section 14 - Meeting the challenge of climate change, flooding and coastal change
- Section 15 - Conserving and enhancing the natural environment
- Section 16 - Conserving and enhancing the historic environment

National Planning Policy Framework, December 2024, Specific paragraphs

Paragraph 7 - The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs . At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection .

Paragraph 8 - Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective, by ensuring that sufficient land of the right type is available at the right places and at the right time to support growth, innovation and improved productivity, and by identifying and coordinating the provision of infrastructure;
- b) a social objective - supporting strong, vibrant and healthy communities; and
- c) an environmental objective - to protect and enhance the natural environment, make effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Paragraph 161 - The planning system should support the transition to net zero by 2050 and take full account of all climate impacts, including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience, encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Paragraph 163 - The need to mitigate and adapt to climate change should also be considered in preparing and assessing planning applications, taking into account the full range of potential climate change impacts.

Paragraph 168 - When determining planning applications for renewable and low carbon development, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future;
- b) recognise that small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;

c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site.

Paragraph 187 - Planning Policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan):

b) recognising the intrinsic character and beauty of the countryside, the wider benefits of natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 188 - Plans should distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.

This paragraph has Footnote 65 which states that [I]Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality[]

National Planning Practice Guidance

The National Planning Practice Guidance (NPPG) offers decision makers support when considering applications for solar development. Both The NPPG and National Planning Policy Framework set out positive strategies to support and encourage renewable energy in correct locations.

Paragraph 003 Reference ID: 5-003-20140306 that the states that the National Planning Policy Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. It points out that the UK has legal commitments to cut greenhouse gases and meet increased energy demand from renewable sources, but whilst local authorities should design their policies to maximise renewable and low carbon energy development, there is no quota which the Local Plan has to deliver.

The (NPPG, 013 Reference ID: 5-013-20150327) explains that where a proposal involves greenfield land, whether:

- (i)the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
- (ii)the proposals allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

The NPPG also put forward 'factors' that LPAs need to consider when making assessments, some include:

- encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value.

- that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use

- the proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety
- the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
- the need for, and impact of, security measures such as lights and fencing
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.

Ministerial Statement – 15th May 2024 - Solar Projects must fit in with food security

The new National Policy Statement that we published in January makes clear that *“applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible.* The Government in Powering Up Britain: Energy Security Plan clarified that while *“solar and farming can be complementary”* developers must also have *“consideration for ongoing food production.”*

Nevertheless, in balancing both the need for energy security and food production, we are concerned that as large solar developments proceed at pace, more of our ‘Best and Most Versatile’ (BMV) land could be used for solar PV instead of food production. I am therefore setting out further detail about how our policy on balancing these competing priorities is intended to be applied.

As is outlined in the National Policy Statement, the starting position for solar PV developers in taking forward Nationally Significant Infrastructure Projects is that applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality.

The National Policy Statement can also be a material consideration in determining applications under the Town and Country Planning Act 1990 and is broadly consistent with the approach to agricultural land in the National Planning Policy Framework which states that *“Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land*

should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development”.

This means that due weight needs to be given to the proposed use of Best and Most Versatile land when considering whether planning consent should be granted for solar developments. For all applicants the highest quality agricultural land is least appropriate for solar development and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary. Applicants for Nationally Significant Infrastructure Projects should avoid the use of Best and Most Versatile agricultural land where possible.

For Nationally Significant Infrastructure Projects, including those already in the system, the National Policy Statement and from today this WMS are likely to be important and relevant considerations in the decision making process. The Government will keep under review the evidence base underpinning the National Policy Statement published in January.

Other Material Considerations

- UK Net Zero Strategy published in October 2021
- Clean Power 2030 Action Plan
- National Policy Statement for Energy (EN-1)
- National Policy Statement for renewable energy infrastructure (EN-3)
- Letter from Ed Miliband to Richard Fuller MP

6.0 Planning History

H19-0081-11 - Installation of 2 wind turbines with maximum height to tip of 126 metres, substation, access tracks, hardstanding areas, external transformers and associated infrastructure (part of a larger scheme of 6 turbines). Appeal DISMISSED

PE-00249-22 - Request for EIA Screening Opinion for proposed solar farm. Opinion Issued.

7.0 Reason for refusal

The reason for refusal, which was issued on 15th May 2025 set out the following:

The application site is made up entirely of Best and Most Versatile Agricultural Land. Notwithstanding the climate change benefits which are given great weight,

the loss of such a large area of BMV land, would be a threat to food security, and so when considering the Ministerial Statement of May 15th 2024, it would also result in a threat to national security.

Moreover, the applicant has not justified whether the proposed use of this Best and Most Versatile Agricultural Land has been shown to be necessary and that land of poorer quality does not exist. Nor has the proposal sufficiently demonstrated why such a large area of land take is required when considering the overall energy output of the scheme. Moreover the alternative site assessment is not considered robust. The proposal is not located on previously developed land and would result in the removal of a large area of the districts Best and Most Versatile Agricultural Land and on this basis the proposal is contrary to Policies 1 & 31 of the South East Lincolnshire Local Plan 2019, Paragraph 187 of the National Planning Policy Framework (December 2024), National Policy Statement for renewable energy infrastructure (EN-3), The Ministerial Statement of May 15th, 2024 and the guidance contained within Planning Practice Guidance (Paragraph 013 Reference ID: 5-013-20150327)

Main Issues expressed within the Refusal

1. Loss/cessation of Best and Most Versatile (BMV) Agricultural Land for arable production is a material consideration.
2. The appellant has failed to demonstrate that the use of high quality arable land (BMV) is necessary.
3. The land take is not commensurate with the scale of operations, externalities follow from overplanting that weigh against the development within the planning balance (unnecessary take of BMV land).
4. The applicant has not demonstrated with robust evidence that the scheme would not result in a material threat to food security.

While the climate change and renewable energy benefits are acknowledged and given significant weight, they are not considered sufficient to outweigh the harm to productive arable land (BMVL) and associated food security concerns.

The overall conclusion is that the development would constitute unsustainable development due to its impact on important and finite national and local agricultural resources.

8.0 Councils Statement of Case

The LPA recognises the clear and significant weight that national policy affords to renewable energy development. Solar farms make a tangible contribution to net-zero

targets, energy security, and climate change mitigation. Strategies including the Net Zero Strategy and Clean Power 2030, together with NPPF (2024) and NPS EN-3, establish that renewable energy proposals merit serious consideration, and applicants are not required to demonstrate overall need. The LPA also accepts that solar PV is generally considered temporary in case law subject to conditions making the 'land good' once operations have ceased (though the scale and period of cessation are material considerations), can enhance biodiversity, and may coexist with limited agricultural activity such as grazing.

However, national policy is not unconditional. Both the NPPF and NPS EN-3 emphasise that Best and Most Versatile (BMV) land (Grades 1, 2, 3a) must be protected wherever feasible. The May 2024 Ministerial Statement heightens this requirement, linking food security and national security to the safeguarding of high-quality soils. The LPA considers these obligations substantial and determinative in the assessment of large-scale solar proposals. This position has been confirmed in a recent letter sent to the LPA by the Rt Hon Ed Miliband MP, Secretary of State for Energy Security & Net Zero (Dated 17th February 2025, addressed to Richard Fuller (Reference in appendices , who confirms that:

'There has been no change to the policy on the weight attached to the use of BMV land. Planning policy and guidance makes clear that, wherever possible, developers should utilise brownfield, industrial, contaminated, or previously developed land. Where the development of agricultural land is shown to be necessary, lower-quality land should be preferred to higher-quality land (including 'Best and Most Versatile' land). This was the policy of the last government, There are no plans to change this policy.'

Agricultural Land Take (BMV)

The site comprises almost entirely BMV land (140 ha, including 74.3 ha in South Holland). While an Agricultural Land Classification survey was submitted, the LPA has serious concerns regarding methodology and sample representativeness, leaving uncertainty as to the reliability of claimed land quality and productivity, i.e. the application site in question is the only location where soil sampling occurred. These results were then measured against the database (MAFF), which confirms the whole search area to be BMV (including this application site itself). The LPA through recent applications is aware that non BMV land exists to the north of the site (circa 2.3 miles), this results from a site specific ALC grading survey. This application is discussed further into the report. The point being made is that the methodology (comparing MAFF against site specific testing) is not reliable and is likely to lead to a predetermined outcome.

The proposal would result in a large, unjustified loss of arable potential, including land in active and locally important food production directly conflicting with national policy

and SELLP Policy 31 (criterion 4). Protection of BMV land is therefore afforded considerable weight in the planning balance, as confirmed by the Secretary of State for Energy Security & Net Zero

Site Selection and Alternatives

The applicant undertook a site search, but the LPA identifies critical shortcomings:

- The 1 km search distance from the Eaton Socon circuit is unreasonably narrow, particularly for a scheme of this scale. Comparable approved schemes have used 4–10 km search radii, reflecting realistic grid-connection feasibility.
- The 50 ha minimum site threshold is arbitrary and may have excluded viable alternative sites, potentially biasing outcomes toward the appeal site.
- Other grid connections were not explored (climate change is a national issue)
- Verification of ALC grades on alternative sites is unclear, meaning the assessment provides no robust evidence that lower-quality land was genuinely considered.
- It is uncertain whether the search was conducted prospectively or retrospectively, leaving doubt over whether it informed site selection or simply justified a pre-determined choice. (ALC Report conducted on 21st & 22nd June 2022, the Site Search and Sequential Flood Test document dated April 2024).

In short, the site search does not demonstrate that the use of BMV land was necessary, nor that lower-grade land within a proportionate geographic extent was exhausted or given full consideration in line with the requirements of the NPPF and also the Ministerial Statement. Therefore, the LPA considers that the appellant has failed to satisfactorily demonstrate that the loss of BMV in this instance is acceptable, or complies with the clear requirements of National Planning legislation.

Cumulative Impacts

While nearby schemes (20 MW solar (plus BESS)) and Meridian (NSIP) are pending and thus carry limited formal weight, the LPA notes that the cumulative impact on local communities and landscape character could be substantial if all schemes proceed. This however did not give rise to the reasons for refusal by South Holland District Council.

Climate Change and Renewable Energy Benefits

The LPA gives significant weight to climate and energy benefits. The proposal would contribute to national net-zero targets, enhance energy security, and reduce carbon emissions. These benefits are acknowledged and remain an important factor in the planning balance. The LPA makes it clear that the landscape impacts are only acceptable due to this weight.

Landscape and Visual Effects

The LPA recognises that the development would harm landscape character and visual amenity, particularly through:

- Industrialising influence on the open Fenland landscape,
- Visual intrusion along public rights of way, and
- Cumulative scale with adjacent proposals.

These impacts were considered, policies 2, 3, and 31 of the SELLP (within the officer report) where the basis for assessment against local policy and they are fully compliant with national landscape guidance under NPPF paragraph 187.

In isolation, the LPA noted that renewable energy objectives may outweigh landscape harm, consistent with national policy and the officer report notes this. However, landscape impacts are secondary to the principal planning concern, which is the basis for the refusal: the substantial loss/cessation of productive arable land (BMVL).

Landscape impacts, whilst significant were, when weighed against climate change benefits, were considered acceptable by SHDC.

Overall Principle and Planning Balance

The decisive planning consideration is the extensive loss/cessation of arable use of BMV land, 140 ha affected, including 74.3 ha within South Holland.

The LPA consider that:

- The cessation (loss) for 40 + years is Material
- The applicant has not demonstrated that the use of high-quality arable land (BMVL) is necessary, and this relates to
 - Absence of robust alternatives assessment
 - Externalities from overplanting (including unnecessary use of BMV, the site does not need to be this large when considering the capped MW output)

- The cessation/loss of arable production would have significant implications for food security and so national security. There is uncertainty regarding current agricultural productivity and so insufficient information has been presented to justify that the impact to food security are acceptable.

Even accounting for substantial renewable energy and climate benefits, the material loss of high-quality arable land dominates the planning balance. The development fails the NPPF sustainability test, conflicts with NPS EN1 and EN-3, SELLP Policy 31, and the May 2024 Ministerial Statement, and cannot be justified on the grounds of temporary land use alone.

Updated National Policy

Since the appeal was submitted, there have been updates to national policy, including the publication of a draft revised National Planning Policy Framework and updates to National Policy Statement EN-3. These documents are discussed below. As both remain subject to consultation, they attract limited weight in decision-making. This position was agreed by the appellant in their addendum submission statement submitted to PINs in December 2025.

National Planning Policy Framework – Consultation Document December 2025

That draft NPPF is now out for consultation until 10 March 2025 with publication expected shortly after in Spring 2026. The appeals are likely to have been determined by the time it is published and therefore it is considered that the draft NPPF will have limited weight in the current decision-making process.

1. Policy on Agricultural Land Quality (N2 - Improving the natural environment)

The draft Framework retains and modernises the traditional planning approach that where development affecting agricultural land is necessary, poorer quality land should be preferred to higher quality land:

“...use areas of poorer quality agricultural land in preference to that of higher quality, where significant development of agricultural land is demonstrated to be necessary (taking into consideration land which is classified as best and most versatile agricultural land, and its grade);”

This wording appears within the thematic policies on making effective use of land and reflects the longstanding principle from earlier NPPF versions. It formalises the preference hierarchy in national policy for decision-taking on agricultural land

2. Glossary Definition – Best and Most Versatile Agricultural Land

The draft Framework explicitly defines BMV land in its Glossary:

“Best and most versatile agricultural land: Land in grades 1, 2 and 3a of the Agricultural Land Classification.”

This definition aligns with current practice and confirms the consistent approach to agricultural land quality across planning decision-making. It shows, through highlighting the distinction that higher quality agricultural land is continues to be a material consideration as planning moves forward.

3. Context and Policy Integration

Although the draft Framework does *not* include separate, standalone text on food production or specific obligations for farmland preservation, the inclusion of the above policy confirms that:

- **Land quality is a material consideration**, and higher quality land should not be developed if poorer quality land is reasonably available.
- The **BMV definition** remains central to assessing agricultural land’s relative value.

This approach is a core part of national policy direction and is carried forward in the draft text for consultation, emphasising sustainable land use and the *strategic environmental role of agricultural land* within planning decisions.

National Policy Statement EN-3 (December 2025 Draft)

The Department for Energy Security and Net Zero has published an updated draft of National Policy Statement EN-3 (the *December 2025 draft*), which has been laid before Parliament for the statutory 21-day consideration period. Whilst not yet designated and therefore attracting limited weight, the December 2025 draft is a material consideration insofar as it reflects the Government’s most up-to-date policy position on solar energy development.

Footnote 98 of the December 2025 draft of EN-3 expressly directs decision-makers to the judgment in *Ross v Secretary of State for Housing, Communities and Local*

Government and Renewable Energy Systems Ltd [2025], and any subsequent case law, for guidance on the acceptability of overplanting. This footnote embeds the principles established in *Ross* directly within national energy policy and confirms that overplanting must be assessed as a matter of planning judgment rather than assumed to be acceptable in principle.

The *Ross* judgment confirms that overplanting is not inherently unacceptable, but equally establishes that it does not benefit from any presumption in favour. Instead, the adverse planning effects arising from overplanting, including land take, landscape impacts and agricultural land loss must be identified, assessed and weighed in the planning balance. These principles align with NPS EN-1, which requires that adverse impacts of energy development are avoided, minimised or mitigated where possible, and that proposals are appropriately designed and justified in relation to their impacts (EN-1, Sections 4 and 5).

In this case, the Local Planning Authority considers that the degree of overplanting proposed, when assessed alongside the over-generous spacing of solar arrays, has not been demonstrated to be necessary to meet operational, technical or viability requirements. No alternative layouts, reduced-density scenarios or comparative assessments have been provided to demonstrate that the scheme has been optimised to minimise land take. This failure is significant, as it directly undermines the claim that the extent of development on agricultural land is unavoidable.

The consequences of this approach are particularly acute given the loss of Best and Most Versatile (BMV) agricultural land. Draft NPPF (December 2025) policy requires that, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to higher quality land, taking into account land classified as BMV. In this instance, the proposal has not demonstrated necessity, nor has it shown that the use of higher-quality agricultural land has been minimised through design or layout. As such, the scheme conflicts with the draft NPPF's land quality hierarchy, even acknowledging the limited weight that can currently be attributed to the draft Framework.

The applicant's reliance on sheep grazing beneath the arrays does not overcome this policy conflict, issues inherent in grazing itself are discussed further in this report. The substitution of higher-quality arable land with grazing use does not, in itself, justify the extent of BMV land take, particularly where the scale of overplanting and array spacing has not been shown to be essential. This approach represents a trade-off that has not been justified through evidence and runs contrary to the expectation within EN-1 and EN-3 that impacts are minimised at source through design.

Accordingly, when read together, the December 2025 draft of EN-3 (as informed by *Ross*), NPS EN-1, and the draft NPPF establish a clear and consistent policy position:

overplanting is permissible only where its impacts are justified and unavoidable, and the loss of BMV agricultural land must be demonstrably necessary. The Local Planning Authority concludes that these tests have not been met. The unjustified scale of overplanting and associated loss of higher-quality agricultural land therefore weigh against the proposal in the overall planning balance

9.0 Rebuttal of Appellant's Case

The appellant has provided a statement of case which are outlined under section 7 of their draft statement of case, the position is as follows:

▪ **Whether any best and most versatile land would be lost** as a result of the development. The appellant's view is that no BMV would be lost, either on a temporary or permanent basis as the site can accommodate sheep grazing alongside the proposed solar use. The Council asserts that BMV would be lost and that there is no guarantee that the soils would retain their fertility following decommissioning.

▪ **Whether it has been shown that the use of Best and Most Versatile Land is necessary** and whether it has been demonstrated that poorer quality land does not exist. The Council's position is that the appellant has not shown that the use of BMV is necessary, or that poorer quality land does not exist. The appellant contends that the Site Justification Report submitted with the application provides a robust justification for the use of the site, and that given the urgency of the need for renewable energy developments, the siting is appropriate. However, the LPA considers that the appellant has failed to demonstrate that a sufficiently robust search to identify lower quality land has been undertaken, and has thus failed to justify the loss of BMV in this instance.

▪ **Impact on food security and national security.** The Council contend that the development would result in an unacceptable impact on food security, and therefore national security. The appellant's view is that the temporary reduction in food productivity that would arise as a result of the development would have a negligible impact on food security, and in turn does not constitute a threat to national security. However, the loss of such a large area of arable potential should be measured in absolute terms and is direct impact in the locality. Such fertile soil is a finite resource.

▪ **Whether it has been demonstrated that the land take is required when considering the overall output of the scheme is acceptable.** The Council contend

that the land take has not been justified and that the proposal does not represent an efficient use of land. The appellant disputes these claims.

▪ **Balance of Harm vs Benefits:** The benefits of the scheme are not considered by SHDC to outweigh the identified harms. The weight attributed to the benefits of the scheme are therefore not agreed upon.

Summary of the Appellant's Planning Balance and Conclusions

The appellant concludes that the proposal fully accords with the development plan when read as a whole and aligns with the relevant provisions of the NPPF. The scheme delivers substantial benefits, and its temporary nature is important: the land will be fully restored to productive agriculture within 42 years, with agricultural activity (sheep grazing) continuing during the operational period.

The development makes a significant and urgently needed contribution to climate change mitigation. It would generate clean electricity equivalent to powering 22,388 homes each year and avoid around 16,200 tonnes of CO₂ annually, supported by a deliverable grid connection requiring no National Grid upgrades. The scheme also delivers exceptional ecological benefits, providing a biodiversity net gain of 173%, far exceeding the statutory 10% requirement.

In the planning balance, the appellant states that the following weights apply:

- **Very Substantial weight** to renewable energy generation and climate change benefits, reflecting national policy and the urgent need for clean energy.
- **Substantial weight** to the availability of an immediate, viable grid connection and the scheme's ability to contribute quickly to national energy targets.
- **Significant weight** to ecological enhancements and the very high biodiversity net gain.
- **Moderate weight** to local economic benefits, farm diversification, and landscape enhancements.
- **Neutral weight** to temporary use of BMV land and to amenity matters including noise and glint and glare.
- **Moderate adverse weight** is attributed to localised landscape and visual effects, which will reduce over time as planting matures.

Overall, the appellant's position concludes, when these factors are considered together, particularly the very substantial weight that national policy gives to renewable

energy, the benefits of the proposal **clearly and decisively outweigh** the limited harms identified.

9.1 Rebuttal to the topics raised by the Appellant

This section of the statement provides a rebuttal to each of the topics put forward by the appellant within their statement of case. The topics put forward by the appellant can be fairly categorised as:

1. Whether Loss/removal of Best and Most Versatile (BMV) Land is Material

2. Demonstrating BMV use is necessary

3. Whether there is an impact upon Food Security and so National Security

4. Is the land take proportionate

The fifth point raised in the appellant's appeal relates to the application of balance, which is the conclusive assessment.

9.2 Whether Loss/removal of Best and Most Versatile (BMV) Land is Material

The appellant contends that the proposed solar development does not result in the loss of agricultural land because:

- The land will continue to be used for grazing sheep.
- The scheme is designed to maintain grass growth under panels, with appropriate height and spacing.
- After the proposed 40-year lifetime, the land would revert to arable use.
- Appeal precedent confirms that solar farms incorporating grazing do not constitute a "loss" of agricultural land.

Policy and Guidance Context

National Policy:

- Ministerial Statement, 15 May 2024 — Recognises the importance of protecting BMV land due to food security considerations. The loss of Grades 1, 2, and 3a land should be minimised and justified.

- NPS EN-3 (2024), While not prohibiting solar on BMV land, stresses that impacts must be considered and poorer quality land should be preferred where possible.
- NPPF (2024), Paragraphs 7, 8, 161, 187. Emphasises sustainable development, protection of soils and landscape, and consideration that areas of poorer quality land should be preferred to those of a higher quality.

Local Policy:

- SELLP Policy 31 — Permits renewable energy developments provided there is no significant harm to agricultural land take, with lower quality land preferred and biodiversity protected (para. 7.5.10).
- The policy recognises land “quality” in terms of its arable production potential, directly relevant to BMV land.

Guidance:

- Planning Practice Guidance (PPG) ID 5-013) confirms that even temporary removal from arable production must be justified, with poorer quality land preferred.

Case Law

- *Hive Energy Ltd v Babergh DC* [2014] Inspector acknowledged that grazing during a solar farm’s lifetime does not constitute permanent loss (para. 88), but removal from arable use must still be justified with poorer quality land preferred. (Para 88)
- *Cutlers Solar Farm Ltd V Uttlesford District Council*. [2023] APP/C1570/W/23/3319421 (para. 108):

Whilst 40 years represents a long term, ‘generational change’, the development would not represent a permanent loss of the finite BMV resource.

Loss in planning terms is not always synonymous with permanent removal. The temporary removal of land from arable production is recognised as a material planning consideration, especially where BMV land is affected. In *Cutlers* 40 years is described as a ‘Generational Change’ in *Hive* ‘Loss’ and ‘Removal’ are interchanged.

The case law suggests that whilst there is no ‘loss’ in the terminal sense from solar arrays, **the removal/cessation of productive arable land is a material consideration.**

Whilst there is no explicit national or local policy that specifies that food production is an obligation, nor is there a requirement that land be used for solar farming purposes. What there is, is a clear emphasis that value should be placed on BMV land, which demonstrates that it should reasonably be made available for agricultural production to assist in playing its part in food security and maximise it.

LPA Position

- The refusal reason refers to the loss of BMV land from arable production, not a loss of all agricultural activity. Grazing alone does not mitigate this impact. Loss describes the impact of removing 140 ha on BMV from arable production for a minimum of 42 years. The terms loss is therefore representative of the ‘removal of arable land from production’.
- The site consists entirely of BMV land (Grades 2 & 3a). While the land may support grazing, the capacity to produce crops is effectively removed for the lifetime of the development. Furthermore, the impacts of a 42 year solar development on soil quality and the ability of agricultural land to return to BMV arable production is currently an unknown quantity and therefore, an assumption. In light of the lack of any firm evidence to demonstrate that this could be achieved, the appellant can only surmise that the land is capable of being returned to its previous condition and arable yield capabilities post decommissioning. The LPA are reasonable in having doubts whether the fertility of the land could be retained following decommissioning.
- The proposal includes infrastructure (BESS, compounds, internal roads, fencing, and other apparatus) that may introduce semi-permanent changes, further limiting restoration to arable use. It is not clear how the compaction of the soils, and so its structure will affect the fertility of the land. The LPA are therefore reasonable to expect that some empirical evidence to support the claim that soils would improve should be submitted as justification to support the appellant’s position.
- The scale of the development (140ha, with 74.3ha in South Holland). The scale along with cessation period suggest that not using this land for arable production is material.

The LPA therefore maintains that the term “loss” in the refusal reason is fair in that it describes that the land would be removed from productive arable use for the lifetime of the development. The case law set out above confirmed that loss/removal/long term generational change is a material consideration and poorer quality land should be preferred (where the loss of BMV is demonstrated necessary).

Furthermore, no empirical evidence exists/has been put forward that soils would improve rather than decline during the lifetime of the development and guarantees cannot be made by the appellant regarding the land quality following decommissioning. The LPA are unsure whether this development would assist in the downgrading of the land, the appellant has not provided any acceptable information that would categorically allay these concerns. No information relating to how pooling off surface water, chemical cleaning of panels and other infrastructure, tending to grasses will affect the existing highly fertile soil. The claim rather that the soil will improve, is, without supporting justification simply anecdotal.

Conclusion

The proposed development would result in a temporary but substantial loss/cessation of BMV land from arable production for the majority of the site. This is exacerbated by the push to expand the site (panel separation and overplanting), this point is discussed further later in this report.

While the land could support grazing, essential infrastructure and panel installation would supersede crop production, impacting food security and in line with national policy and the Ministerial Statement of 15 May 2024, this matter also relates to national security. There is also considerable doubt for the LPA as to whether sheep grazing is reasonably practical, for the reasons previously set out within this statement.

Case law confirms that “loss” does not require permanence; even reversible or temporary removal of arable land **is a material consideration**.

On this basis, the LPA’s refusal reason is fully justified and supported by national policy, local plan provisions, and established planning case law.

9.3 Demonstrating BMV use is necessary

The appellant’s position is that national policy does not prohibit solar development on BMV land and that there is no formal requirement for an Alternatives Assessment or sequential test. The appellant has put forward Bramley Solar Power Residents Group v SSLUHC [2023] to reinforce this point.

While it is correct that neither the NPPF nor the energy NPSs impose an explicit sequential test, Inspectors consistently expect a proportionate geographic search to demonstrate that the use of high-quality agricultural land is genuinely necessary. This is because NPPF para. 187 (b) requires decision-makers to recognise the economic and other benefits of BMV land, which naturally implies that development should avoid such land where reasonable, this is further reinforced by the letter from Ed Miliband.

Therefore, whilst the LPA acknowledge the persuasiveness of the Bramley [2023] case which considers that there is no mandatory requirement for a sequential site search, it does NOT encourage applicants to submit perfunctory alternative site assessments. It simply states that there is no blanket requirement to provide this information.

In *Hive Energy Ltd v Babergh DC* [2014] under paras. 76 – 87 the Inspector considers the sequential approach put forward by the appellant, which was considered flawed, para. 80 stating “*This approach is far from robust and is completely inadequate. Consequently, for the reasons given, I find that the Appellant has not demonstrated that the use of agricultural land is necessary.*”

National Policy Statement EN-3 states:

While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise previously developed land, brownfield land, contaminated land and industrial land. **Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land (avoiding the use of “Best and Most Versatile” agricultural land where possible).** (Para. 3.10.14)

The note which is succinct with National Policy Statement EN-1, given the arbitrary nature of the planning system the burden of proof is placed upon the applicant to demonstrate this – which in the opinion of the LPA, the appellant has failed to do or address in the case of this appeal. Therefore, notwithstanding Bramley [2023], the majority of applications for solar farms (on agricultural land) are accompanied by a sequential test or alternative site assessment (ASA).

This shows, empirically, that the most reliable way to demonstrate that the use of agricultural land is necessary, is to carry out such a study. **It is of note that there is a further requirement, beyond demonstrating necessity and that is to show that poorer quality land is preferred to high quality.**

Need to demonstrate reasonable efforts to avoid *Higher Quality*

Although the appellant states BMV land is “typical” of the district, this does not remove the obligation to demonstrate that poorer-quality land was genuinely considered. The LPA notes that there are large areas of lower BMV land located throughout the District that could have, but were not, given consideration for site selection. Inspectors are clear that prevalence of BMV does *not* excuse the development of the best-performing or most productive land within the available land pool.

The Lullington appeal reinforces this point: even where BMV is widespread, the developer must still show that reasonable alternatives, whether lower-grade land or land of comparable grade but with lesser agricultural value or sensitivity, have been properly assessed. The principle applied was that the developer must engage with meaningful comparison, not simply assert that “everything is BMV.”

- Lullington Solar Park Ltd against the decision of South Derbyshire District Council [2023] [APP/F1040/W/22/3313316]

Lullington Para. 15 - The appellant provided an assessment of alternative sites to demonstrate why agricultural land is to be used for the appeal development. This included assessing the opportunities that might be available on previously developed land (PDL)/brownfield land, commercial rooftops and lower grade agricultural land (grades 3b, 4 and 5).

Lullington Para. 16 – States- It is clear that a robust assessment has not been made of the grading of agricultural land within the remainder of the study area, which from the data held by Natural England has significant areas of Grade 3 agricultural land. While I accept the argument that it would not be practicable to undertake extensive investigation of the entire study area, I agree with the Council who pointed out that the explanatory note³ to the Agricultural Land Classification maps sets out that Grade B reflects ‘areas where 20-60% of the land is likely to be ‘best and most versatile’ agricultural land’. This to my mind adds to the criticism that the evidence has failed to demonstrate that there is no land available for this development within the study area of a lesser agricultural quality, contrary to national and local policy. It also does not stand up to scrutiny as the ‘compelling evidence’, which is sought in the WMS.

The 2022 “Working with Soil / Guidance Note on Assessing Agricultural Land Classification Surveys in England and Wales” (soils.org.uk) notes that a valid ALC report should follow the 1988 guidelines. One of its triggers for requiring a “specialist assessment” is: “there is no evidence of field survey work; such as pits, auger borings and lab samples.” In other words: if a survey relies only on desk-based or map data (with no fieldwork), it fails a basic reliability check.

The appellant uses the ALC system (MAFF 1988), whilst this is the only approved system for grading agricultural land quality in England and Wales, however this approach offers an unreliable comparison against site specific testing. The LPA are aware through other applications that there is the presence of Non-BMV Land to the north of the search area which does not appear to have been considered, assessed and dismissed by the appellant for any justified reason.

Geographic Area of Search

In Cutlers Solar Farm Ltd against the decision of Uttlesford District Council [2023] APP/C1570/W/23/3319421. The search Area was based in the following manner (para. 114):

- The ASA considered the availability of previously developed sites within 4km of the electricity grid connection secured at the Thaxted Substation and included a further desktop study of land within 5 miles of Thaxted

The appellant relies heavily on the point that the appeal site is the “lowest-quality site within 1km either side of the grid point of connection.” However:

- A 1km radius is an unusually narrow search area for a an almost national-scale infrastructure operation. These can feasibly connect over much wider distances.
- Numerous appeal decisions have accepted 5–10km radii as proportionate for solar alternatives work, reflecting the reality that grid connections can be engineered across reasonable distances and that agricultural land quality does not vary meaningfully over short radii.
- Restricting the search to 1km artificially limits the available site search and risks predetermining the outcome.

Other Search Areas:

The table below explores some examples of search areas provided as justification to demonstrate that the use of land was necessary.

Appeal / Application (Year)	Reported Search Area / ASA Scope / Radius for Alternative Sites
Ledwyche Solar Farm (Shropshire, appeal 2025) — ASA by ADAS / RSK	For the purposes of site selection, a 6km search corridor was then utilised (3km either side of the OH line)
Little Hale Fen Solar Park (North Kesteven, appeal 2025) LPA Ref: 23/1021/FUL	6KM Radius.
Wandon End Solar (North Hertfordshire) 2025APP/X1925/W/25/3359065	3KM search area from 33Kv substation (Greenbelt)

HECKINGTON FEN SOLAR PARK	The Applicant considered a search distance of 15km from Bicker Fen substation for a back check and review of alternative sites
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The above applications when compared to the appellants concentrated geographical area of search highlight that the search area (to identify a 140+ ha site) is small. The reasons for this, concluded by the LPA are due the self-imposed criterion set out as a methodology for searching sites.

Why the applicant geographic search area fails

There is a clear error made in the site search and sequential flood test document. Page 12, 'Figure 4' shows that the boundaries of application site extend beyond the 1KM site search area parameters. This application site effectively is located (albeit in part) outside of the geographic area of search.

This is especially concerning for the LPA as when considering a recent planning application for a 20MW Solar Farm (ref: H20-1007-24) the site specific ALC survey that accompanied the submission showed areas of non BMV land. This site is located circa 2.3 miles from that application site.

These reasons alone demonstrate to the LPA that the appellant has not robustly searched for areas of poorer quality agricultural land. It also demonstrates why the desk based comparison is flawed.

Therefore, the LPA considers that the appellant has failed to demonstrate that a sufficiently robust search to identify lower quality land has been undertaken, and has thus failed to justify the loss of BMV in this instance.

Conclusion – Demonstrating BMV Use is Necessary

In conclusion, the appellant has not demonstrated that the use of Best and Most Versatile (BMV) land is necessary, nor that poorer-quality or non-agricultural options have been reasonably explored. Whilst Bramley [2023] confirms that a sequential test is not a universal requirement, national policy (including NPPF paragraph 187, NPS EN-3 and Policy 31 of the South East Lincolnshire Local Plan) nonetheless requires that development avoids BMV land where reasonably possible and shows a preference for lower-grade agricultural land where agricultural use is unavoidable. Meeting that requirement demands a proportionate geographic and qualitative assessment of available alternatives.

The appellant's reliance on an unusually narrow 1 km search either side of the connection, coupled with self-imposed minimum site size thresholds and a single

preferred grid connection point, has materially restricted the alternatives assessment and risks predetermining the outcome. The internal inconsistency whereby parts of the application site themselves lie outside the stated 1 km search area further undermines the credibility of the methodology and demonstrates that the chosen search parameters are arbitrary rather than evidence-led.

Comparable solar proposals have applied considerably wider areas of search (3–15 km), reflecting that viable grid connections and site configurations are not limited to a single point, and that a broader review is both technically and commercially realistic.

Moreover, the appellant's approach to agricultural land quality is based principally on desk-based ALC mapping without site-specific investigation. MAFF (1988) and the 2022 Working with Soil guidance confirm that provisional ALC mapping is not sufficiently precise for site-level planning decisions and that the absence of field survey work (including pits, auger borings and soil sampling) should trigger specialist assessment. The Council is therefore entitled to give limited weight to the appellant's desk-based comparison, particularly given that a recent planning application approximately 2.3 miles away was supported by **site-specific ALC evidence demonstrating the presence of non-BMV land** within the immediate locality. The appellant's failure to engage with this known local variation materially diminishes the robustness of the ASA.

Taken together, the ASA fails to demonstrate that the development must take place on BMV land, fails to evidence any meaningful preference for lower-grade land, and provides no convincing justification for departing from national and local policy that seeks to protect higher-quality agricultural resources. As reflected in Hive Energy (2014) and Lullington (2023), prevalence of BMV within a district does not remove the obligation to explore lower-grade alternatives. On the evidence before the Council, reasonable alternatives including locally available non-BMV land have not been exhausted, and the loss of BMV therefore remains unjustified.

9.4 Whether there is an impact upon Food Security and so National Security

The Ministerial Statement (15 May 2024) explicitly recognises that food security is a matter of national security "Food security is an essential part of national security" It also highlights the risks of using BMV land for solar development:

"The National Policy Statement can also be a material consideration in determining applications under the Town and Country Planning Act 1990 and is broadly consistent with the approach to agricultural land in the National Planning Policy Framework which states that *"Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural*

land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development”.

National policy continues to treat the protection of productive agricultural land as a matter of public interest. The May 2024 Written Ministerial Statement (further reinforced by the letter from Ed Miliband) explicitly links food security to national security and confirms that where significant development of agricultural land is proposed, poorer quality land should be preferred. Although the December 2024 NPPF omits an explicit food security reference, paragraph 187 still seeks to safeguard BMV soils and natural capital. NPS EN-3 takes the same approach, directing applications towards lower-grade land where agricultural development is unavoidable. The appellant has not explained why these expectations should not apply here.

Food security is a legitimate planning impact

Recent appeal decisions confirm that the removal of BMV land, even temporarily, is capable of harming food production and is therefore a legitimate planning consideration:

- Lullington Solar Park (2023) – loss of arable BMV outweighed renewable benefits; appeal dismissed.
- PACE (Upleadon, 2024) – Inspector relied on the May 2024 WMS and accepted BMV loss only because poorer-quality land had demonstrably been preferred.

The appellant relies on the temporary nature of solar development, but both decisions recognise that loss of productive arable land, whether for 30 or 40 years, is a meaningful interruption of food production, not a neutral position.

Scale and substance of loss

The application affects a substantial area of Grade 2/3a land which is actively used for arable production. The appellant’s reference to percentages of cereal output avoids the relevant policy test, which concerns the quality and availability of BMV land, not relative tonnage figures. Grazing potential under panels does not maintain arable food production; Hive Energy (2014) confirms that post-development grazing does not remove the planning harm caused by losing arable capability.

National security context

The 2024 WMS is clear that the cumulative removal of BMV land contributes to long-term food security risk. In the present case, the scale of the BMV loss, covering 140 ha

in total, including 74.3 ha within South Holland, is material in its own right and adds to existing pressures on the local agricultural land base. The appellant has not provided any convincing evidence or justified that the loss of highly productive arable land here does not contribute to that national concern.

Conclusion – Food Security and National Security

The proposal results in a significant and long-term loss of productive BMV land. National policy (NPPF paragraph 187, NPS EN-3 and the May 2024 WMS) requires such loss to be minimised and justified. Case law confirms that food production and the safeguarding of arable land remain legitimate planning considerations, and that BMV should only be used where clearly necessary. On the appellant's evidence, no such justification has been made. The proposal therefore fails to demonstrate that its impact on food security, and, by extension, national security, is acceptable, reinforcing the Council's objection on this issue.

9.5 Is the land take proportionate

Before turning to policy, it is necessary to highlight that the scale of land-take proposed here is not an inevitable consequence of delivering a 50 MW export-limited scheme. The appellant has elected to employ substantial overplanting and wider panel spacing which, by design, increases the footprint of the development. These choices directly intensify the loss of BMV land and associated planning harms. In that context, and consistent with the Council's reason for refusal, the proposal has not clearly demonstrated why such an extensive area of land is necessary for the level of energy output claimed. Overplanting therefore cannot be treated as a neutral technical matter: it gives rise to additional externalities, land consumption, loss of agricultural productivity and wider environmental effects, which must be justified and weighed as part of the planning judgement.

National and Local Policy Context

The appellant argues that land-take cannot be assessed against MW-per-hectare or any prescribed ratio. While no numeric standard exists, policy requires LPAs to consider whether agricultural land, particularly BMV, is used only where necessary and in a proportionate manner. This necessarily includes scrutiny of how much land is required to achieve the stated output.

National Policy Statement EN-1 directs:

“The Secretary of State should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification...Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred...” (para. 5.11.34)

EN-3 further provides:

“Where sited on agricultural land, consideration may be given as to whether the proposal allows for continued agricultural use...and/or storage to maximise the efficiency of land use” (para. 3.10.17); and

“The Secretary of State should take into account the economic and other benefits of the best and most versatile agricultural land...[and] ensure that the applicant has put forward appropriate mitigation measures...” (para. 3.10.136).

The policy expectation is therefore clear: layouts must demonstrate efficient land use and justify any loss of BMV land.

Recent Case Law Confirms Scrutiny of Overplanting

Ross v SSHCLG & RES Ltd [2025] EWHC 1183 (Admin)

The Court held that overplanting may be acceptable only where justified and fully assessed, including land-take effects:

“Such reasonable overplanting should be considered acceptable...so long as it can be justified...and the proposed development and its impacts are assessed...including any overplanting.” (para 52)

Ross confirms overplanting is part of planning judgement because it affects the scale and physical impacts of development. At para 82:

“If the impacts outweigh the benefits this will be a potent factor in the planning balance...”

This directly contradicts the suggestion that overplanting should be disregarded when considering land-take. Here, increased separation distances principally serve dual-use grazing rather than energy efficiency, and therefore intensify the loss of arable land.

Lullington Solar Park Ltd v Secretary of State [2024] EWHC 295 (Admin)

This decision upheld refusal due to unjustified loss of BMV land, confirming that where large areas of high-grade land are concerned, design and land-take require heightened scrutiny, including whether the same output could be achieved with less land.

Bramley Solar Farm Residents Group v SSLUHC [2023] EWHC 2842 (Admin)

Bramley reinforces the need for transparent justification of extent and layout for land-intensive solar proposals, not merely headline capacity.

These Cases Demonstrate that Overplanting is Material

In contrast to Ross, the present scheme involves:

- exceptionally extensive BMV land-take;
- reliance on overplanting to justify the footprint;
- a limited ASA, raising questions over the availability of poorer land; and
- national policy that now places increased emphasis on food security.

Overplanting therefore goes to the heart of whether the loss of BMV land is necessary and proportionate. Legal principles from Galloway, Ross, Bramley and Lullington require consideration of whether layout and land-take are justified and whether equivalent output could be delivered with less land. As such, that these appeals were allowed by the Planning Inspectorate is not directly material to the outcome of this appeal, neither does this set a precedent.

Design Features Cited by the Appellant

- 18% additional spacing for grazing – optional and not required by policy;
- retained landscape features – positive but do not dictate overall extent;
- high BNG – can be delivered in part off-site; (whilst BNG improvements are

welcomed, are they in-keeping, what is the trade off?)

- IDB buffers – regulatory, not determinative of footprint;
- 30 MW BESS – beneficial to the efficiency of the scheme but does not justify the overall land-take.

These elements, while positive, do not demonstrate that land-take, especially of BMV land, has been minimised and perhaps uses more BMV land than is necessary.

Proportionality as Planning Judgement

Comparisons with other schemes are legitimate context in the absence of numeric standards. Inspectors routinely consider relative density and footprint. On this evidence, the site appears unusually large for the output, particularly given its almost entirely BMV character. This is demonstrated by some examples of recent applications for solar development within the district:

- H09-0132-23 – 48 MW, 80.05 ha
- H04-0849-22 – 49.9 MW, 97 ha
- H18-1043-23 – 39 MW, 78.64 ha

The appeal site appears unusually large in contrast, with no explanation provided by the appellant to demonstrate the need or reasoning for a scheme of this size.

Summary

While overplanting may be acceptable in principle, the Council's concerns remain:

- The land-take is extensive and predominantly comprises BMV land.
- No robust justification has been provided to demonstrate that such a large area is necessary for the stated energy output.
- Alternative configurations or a more compact layout have not been properly considered.
- Increased separation between arrays expands the footprint beyond what is required, primarily to facilitate token grazing rather than efficient energy production.

Accordingly, the Council's position, that the land-take is excessive relative to the scheme's output, is well-founded and fully consistent with the NPPF, EN-1/EN-3, and Local Plan Policy 31.

10.0 Conclusion

This conclusion addresses the main points raised by the appellant, concerning the use and loss of Best and Most Versatile (BMV) agricultural land, proportionality of land-take, and impacts on food and national security.

Materiality of BMV Land Loss

The appellant contends that grazing under solar panels prevents any “loss” of agricultural land and that, after the proposed 40-year lifetime, the land would revert to arable use. While grazing is possible, national and local policy, including the NPPF (2024), NPS EN-1 and EN-3, the May 2024 Ministerial Statement, and Policy 31 of the South East Lincolnshire Local Plan, explicitly recognise that even temporary removal of BMV land from arable production is a material planning consideration. Planning Practice Guidance (ID 5-013) confirms that areas of higher quality land should be avoided wherever possible, and any temporary removal must be justified.

Case law supports this approach. In *Hive Energy Ltd v Babergh DC [2014]* and *Cutlers Solar Farm Ltd v Uttlesford DC [2023]*, inspectors acknowledged that solar development may temporarily remove land from arable use, yet this still represents a material impact requiring robust justification. The Council maintains that the proposed development would remove approximately 140 hectares of BMV land from arable production for the lifetime of the scheme. Infrastructure such as BESS, internal roads, fencing, and panel arrays would result in semi-permanent changes, further limiting restoration to arable use. No empirical evidence has been provided to show that soil quality would improve during this period, leaving the potential for degradation unaddressed.

Necessity of BMV Use

The appellant argues that national policy does not prohibit solar development on BMV land and that no formal sequential test or Alternatives Site Assessment (ASA) is mandatory, citing *Bramley Solar Farm Residents Group v SSLUHC [2023]*. While it is correct that a sequential test is not universally required, national policy and local plan guidance (NPPF para. 187, NPS EN-3, Policy 31) emphasise that development should avoid BMV land wherever reasonably possible and that poorer-quality land should be preferred. Also as confirmed by the Ministerial Statement and the recent letter from the Sec of State for Energy Security & Net Zero.

The appellant’s ASA is inadequate. It relies on a narrow 1 km search width, applies arbitrary minimum site size thresholds, and is largely desk-based, without field verification of agricultural land classification. Case law confirms that prevalence of BMV land does not excuse failure to consider lower-grade alternatives. In *Lullington*

Solar Park Ltd v South Derbyshire District Council [2023], the Court found that even where BMV land is widespread, developers must assess reasonable alternative sites, including lower-grade land, brownfield land, or previously developed land, to demonstrate necessity.

Importantly, the Council is aware, through recent applications in the immediate vicinity, that non-BMV land exists locally and could provide feasible alternatives. Reliance solely on MAFF desk-based mapping without site-specific investigation, as adopted by the appellant, is therefore questionable and materially undermines the credibility of the ASA. As such, the LPA considers that the appellant has failed to demonstrate that a sufficiently robust search to identify lower quality land has been undertaken, and has thus failed to justify the loss of BMV in this instance.

Impact on Food and National Security

The May 2024 Ministerial Statement explicitly recognises the link between food security and national security, highlighting the risks posed by development on BMV land. Even temporary removal of productive arable land is considered a legitimate planning impact, as confirmed in recent appeals such as *Lullington (2023)* and *PACE Upleadon (2024)*. The scale of the proposed development covering 140 ha, including 74.3 ha within South Holland represents a substantial and material loss of productive land from arable farming and locally important crop production. The appellant's reliance on grazing potential and relative cereal output percentages fails to address policy concerns, which focus on the quality and availability of BMV land rather than tonnage figures. The use of agricultural land must be demonstrated to be necessary and lower quality preferred over higher quality. The appellant has not justified that this is the case, the LPA are reasonable therefore in their position that the development would have an impact upon food security (and so national security).

Proportionality of Land-Take

The appellant's proposed scheme delivers a 50 MW export-limited development but employs substantial overplanting (86 MWp) and increased panel spacing, which expands the footprint unnecessarily. National policy (EN-1 para. 5.11.34, EN-3 paras. 3.10.17 & 3.10.136) requires layouts to demonstrate efficient use of land and justify any loss of BMV land.

Recent case law confirms that overplanting is not a neutral technical matter and must be assessed as part of the planning judgment (*Ross v SSHCLG & RES Ltd [2025]*; *Lullington [2024]*; *Bramley [2023]*). In this instance, increased spacing principally serves dual-use grazing rather than energy efficiency, intensifying the loss of arable land.

Additional design features cited by the appellant, including landscape retention, biodiversity net gain, IDB drainage buffers, and the 30 MW BESS, are positive but do not demonstrate that land-take has been minimised. Comparisons with other solar schemes in the district indicate that the site is unusually large relative to its output (for example, 48–49.9 MW developments occupy 78–97 ha).

Concluding Paragraph

In conclusion, the Council considers that the appellant has not demonstrated that the proposed development is necessary, proportionate, or justified with respect to the use of BMV land, and would be contrary to National and Local Planning Policy and up-to-date Government Guidance (as confirmed by the Secretary of State for Energy Security & Net Zero). The proposal would result in a substantial, long-term removal of productive arable land from use (with no guarantees and uncertainty upon its future quality and restoration due to lack of available evidence), exacerbated by increased panel spacing and overplanting, which primarily serve token grazing rather than efficient energy production. The ASA is inadequate, relying on an arbitrarily narrow 1 km search radius and MAFF desk-based mapping, despite the Council's awareness from other nearby applications that non-BMV land is available.

Furthermore, design measures cited by the appellant, including landscape retention, biodiversity net gain, IDB buffers, and BESS, do not mitigate the significant loss of BMV land, nor do they justify the extent of the land-take. The scale of the development, combined with its high-quality agricultural character, is therefore disproportionate relative to the proposed energy output. The impact on food security, which has national security implications, remains material and should be afforded significant weight in the determination of this appeal.

Accordingly, the Council's position, that the land-take is excessive, unjustified, and inconsistent with national policy (NPPF, EN-1, EN-3), the May 2024 Ministerial Statement, and Local Plan Policy 31, is fully supported by the evidence and case law.

Therefore, the Council respectfully asks that this appeal be dismissed.

11.0 Appendices

The Appendices include:

12.0 - the list of conditions proposed by South Holland DC should the inspector approve the development.

13.0 – References

12.0 Draft Conditions

As per the instruction contained within the Pins Questionnaire, standard conditions relating to time limit (to begin development), Approved Plans and materials have not been included.

Condition 1 – First export

Within 1 month of the date of first export of electricity, confirmation shall be given in writing to the local planning authority of the date of first export to the Grid. The development hereby permitted shall cease on or before the expiry of a 40-year period from the date of the first export of electricity and the local planning authority shall be notified of the cessation of electricity generation and storage in writing no later than 5 working days after the event. The land shall thereafter be restored to its former condition and agricultural land classification grade in accordance with a scheme of decommissioning work (the Decommissioning Scheme).

Reason: To define the terms of the permission and to protect the best and most versatile agricultural land.

This Condition is imposed in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 2 - Decommissioning

The Decommissioning Scheme shall be submitted to and approved in writing by the local planning authority no later than 6 months prior to decommissioning and shall include provision for the dismantling and removal from the site of the solar PV panels, frames, foundations, inverter housings, BESS and all associated structures, storage facilities and fencing. The decommissioning shall be carried out strictly in accordance with the approved scheme.

Reason: To protect the best and most versatile agricultural land.

This Condition is imposed in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 3 – Early Decommissioning

In the event the site ceases to generate and store electricity for supply to the electricity grid network for a period of 12 months, an Early Decommissioning Scheme shall be submitted to and approved in writing by the local planning authority, no later than 3 months from the end of the 12-month period. The scheme shall include the same provisions referred to in Condition 2 and the decommissioning shall be carried out strictly in accordance with the approved scheme.

Reason: To protect the best and most versatile agricultural land.

This Condition is imposed in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 4 – CEMP

A detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be submitted to and approved in writing by the Local Planning Authority before the development commences and the construction process shall be carried out in accordance with the scheme so approved.

Reason: In the interests of the amenity of local residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 5 - Mud on Highway

Details of the precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from the site during construction of the development shall be submitted to and approved in writing by the Local Planning Authority before the development commences.

These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before commencement of the construction of the development and be kept available

and in full working order until such time as the Local Planning Authority agrees in writing to their withdrawal or the completion of the development.

Reason: In the interests of highway safety during the construction process. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019.

Condition 6 – Surface Water Drainage

Before the commencement of the development hereby granted beyond oversight, full details of the means of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

Condition 7 – CTMP & MS

The development hereby permitted shall be undertaken in accordance with a Construction Management Plan and Method Statement that shall first be submitted to, and approved in writing by, the Local Planning Authority. The Construction Management Plan and Method Statement shall indicate measures to mitigate against the adverse impacts of vehicle movements and vehicle parking and shall include;

- the phasing of the development to include access construction;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- a strategy stating how surface water run off on and from the development will be managed during construction

Reason: In the interests of the safety and free passage of those using the adjacent public highway and to ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development during construction.

This Condition is imposed in accordance with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan, 2019.

Condition 8 – Noise

The development shall be carried out in accordance with the Noise Impact Assessment by Hepworth Acoustics dated May 2024. The construction works and operational characteristics shall be implemented and retained.

Reason: To ensure that there is no noise nuisance to nearby residents.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

Condition 9 – Landscaping

Before the commencement of development hereby permitted, details of the management and maintenance schedule for the areas of landscaping, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these areas shall be maintained in accordance with the approved details.

Reason: To ensure that adequate provision is made for the management and maintenance of the those areas.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

Condition 10 – Lighting

Details of the external illumination of all buildings and areas of the site including details of luminance and fields of illumination shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of those buildings and areas and there shall be no external illumination other than that so approved.

Reason: To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

Condition 11 – Land Contamination

If contamination of land has been identified during construction, a full copy of a verification report shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation objectives and criteria has been fully met.

Note: The applicant is advised that the phased risk assessment required by the Contaminated

Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.

Reason: To ensure the satisfactory remediation of contaminated land and/or waters. This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

Condition 12 – Landscaping

The scheme of landscaping and tree planting shown on the approved plans shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 13 – Boundary Treatments

Prior to their installation, details of the proposed boundary treatments, including a schedule of fencing levels, heights and materials, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 14 – Grazing Management Plan

Prior to the first operation of the solar farm hereby approved a grazing management plan shall be submitted to and agreed in writing with the local planning authority. The plans shall show how the grazing meadow is used for grazing continuously throughout the life time of the development, including any times when the meadow will not be grazed as well as the number of animals per area. If for any reason livestock grazing of land fails to occur for a period of more than 12 months, the solar panels and the related ancillary equipment shall be decommissioned and removed from the site.

Reason: In the interests of protecting agricultural land and to meet with NPPG requirements. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 15 – Construction/Decommissioning Hours

For the duration of the construction and decommissioning periods, construction/deconstruction activities and deliveries received at or despatched from the site, shall only occur between the hours of 0800- and 1800-hours Monday to Friday, 0800- and 1330-hours on Saturday and not at all on Sundays and Bank Holidays.

Reason: In the interests of the amenity of local residents.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 16 – Permitted Development Rights

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no buildings, structures, fences, gates, posts, solar panels, hardstandings, footings, platforms, pavements, bunding, earthworks or other

engineering operations shall be constructed, installed, or carried out on site other than in accordance with the details on the approved drawings.

Reason: In the interests of the character, landscape and for the amenity of local residents..

This Condition is imposed in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 17 – Glint and Glare

Within 28 Days of the receipt of a written request from the Local Planning Authority following concerns raised in relation to the impacts from glint and glare, the solar farm operator shall submit details of proposed mitigation measures and a timescale for implementation. Such information shall be provided within 3 months of the date of the written request of the Local Planning Authority; the proposed mitigation measures shall be carried out in accordance with the approved details.

Reason: To safeguard residents, road users and the aviation industry from the effects of glint and glare.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Condition 18 – Soil Management Plan

Prior to the commencement of development, a Soil Management Plan (SMP) shall be submitted to and approved in writing by the Local Planning Authority. The SMP shall include:

1. Soil Survey and Classification: Pre-construction mapping of topsoil and subsoil, including identification of Best and Most Versatile (BMV) land.
2. Soil Handling and Protection: Measures for stripping, storage, and replacement to avoid contamination, compaction, or erosion during construction.
3. Restoration and Monitoring: Procedures for reinstating soils after decommissioning, including topsoil replacement, re-seeding, and a monitoring programme for at least 5 years to ensure soil quality is maintained.
4. Implementation: All works must be carried out in accordance with the approved SMP.

Thereafter, the development shall be undertaken in accordance with the approved SMP at all times throughout the lifetime of the permission.

Reason: To protect and restore soils, including BMV land, in accordance with the NPPF (2024), NPS EN-3, and planning guidance.

Condition 19 – Biodiversity Gain Plan

The development hereby permitted shall not commence until a biodiversity gain plan has been submitted to and approved in writing, by the Local Planning Authority. The development shall then be carried out in accordance with the details as approved.

Reason: To comply with Schedule 7A of the Town and Country Planning Act (1990, as amended).

This Condition is imposed in accordance with Schedule 7A of the Town and Country Planning Act (1990, as amended) and Policy 28 of the South East Lincolnshire Local Plan, 2019.

Condition 20 - HMMP

Prior to any vegetation clearance (defined as the deliberate removal of any semi-natural vegetative habitat e.g., grassland, trees, and native shrubs); or prior to the commencement of any development hereby permitted (whichever comes first); a written 30-year Habitat Management and Maintenance Plan (HMMP) for the Site in question shall be submitted to and approved in writing by the Local Planning Authority.

The approved HMMP shall be strictly adhered to and implemented in full for its duration and shall contain:

- A) Aims, objectives and targets for management, including habitat target conditions matching the Statutory Biodiversity Metric submitted with the application.
- B) Details of the phasing and implementation of the habitats
- C) Details of the management operations necessary to achieving aims and objectives.
- D) Preparation of a works schedule, including timescales for habitat clearance and habitat creation and/or enhancement.
- E) Details of the monitoring needed to measure the effectiveness of management and details of an assessment as to whether the target condition is achieved within the time to target period specified within the approved metric.
- F) Details of the persons responsible for the implementation and monitoring.

G) Mechanisms of adaptive management and remedial measures to account for changes in the work schedule to achieve required targets.

H) Reporting on the delivery of on-site gains on years 1, 2, 5, 10, 20 and 30 following the implementation of the habitats in accordance with the above details.

Reason: To meet the requirements in delivering the Mandatory Biodiversity Net Gain and to ensure net gain in biodiversity is provided on site.

This Condition is imposed in accordance with Schedule 7A of the Town and Country Planning Act (1990, as amended) and Policy 28 of the South East Lincolnshire Local Plan, 2019.

INFORMATIVE[s]

1. The applicant is reminded that it is an offence under the Wildlife and Countryside Act, 1981 (as amended) to kill, injure, or take (handle) any protected species occupying a place of shelter or protection and also to take, damage or destroy the nest of any wild bird while that nest is in use or being built. If evidence of bats is found before or whilst the work is carried out you are advised to contact Natural England at their Lincoln office (telephone 03000 603900).

2. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning

policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

3. In accordance with Section 59 of the Highways Act 1980, please be considerate of causing damage to the existing highway during construction and implement mitigation measures as necessary. Should extraordinary expenses be incurred by the Highway Authority in maintaining the highway by reason of damage caused by construction traffic, the Highway Authority may seek to recover these expenses from the developer.

4. The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in accordance with the Authority's specification that is current at the time of construction. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application. For application guidance, approval and specification details, please visit:

<https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb>

or contact vehiclecrossings@lincolnshire.gov.uk

5. Byelaw 3 (Surface Water)

The applicant has indicated that they intend to dispose of surface water via infiltration (i.e., the installation of permeable surfacing), however I cannot see that the viability of this proposal has been evidenced. We recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

13.0 References/Case Law

- 1.** Hive Energy Ltd against the decision of Babergh DC [2014]
References: paras. 76–87 & 88.
- 2.** Cutlers Solar Farm Ltd against the decision of Uttlesford District Council [2023] APP/C1570/W/23/3319421
References: paras. 108, 114.
- 3.** Bramley Solar Farm Residents Group v Secretary of State for Levelling Up, Housing & Communities [2023] EWHC 2842 (Admin)
- 4.** Lullington Solar Park Ltd v South Derbyshire District Council APP/F1040/W/22/3313316 [2023]
Upheld in High Court [2024] also attached.
- 5.** Pathfinder Clean Energy (PACE) UK Dev Ltd against the decision of Forest of Dean District Council [2024] - APP/P1615/W/23/3331416
- 6.** Ross v Secretary of State for Housing, Communities & Local Government & RES Ltd [2025] EWHC 1183 (Admin)
References: paras. 52, 82.
- 7.** Department for Energy Security & Net Zero (17th February 2025) Letter from Rt Hon Ed Miliband MP to Richard Fuller MP.