

LAND NORTH OF BUTTERFLY LANE, LAND SURROUNDING HILFIELD
FARM AND LAND WEST OF HILFIELD LANE, NEAR ALDENHAM,
HERTFORDSHIRE

CLOSING SUBMISSIONS ON BEHALF OF
THE COMBINED OBJECTORS GROUP (“COG”)

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Introduction

1. This appeal seeks full planning permission for vast development in relation to land lying wholly within the Metropolitan Green Belt (“MGB”), which is in, and historically has been put to, active agricultural use. That has been the situation for a great many years.
2. The description of development (ref: 21/0050/FULEI) is set out in various places (“the Proposed Development”).¹
3. The Proposed Development is, at least, the size of two local villages,² being 130 ha in total landtake, and 85 ha in built development. Notably, it represents development of the majority of the undeveloped land the Appellant has control over.³
4. It is, deliberately,⁴ set at 49.9MW, just below the threshold of a Nationally Significant Infrastructure Project.

¹ E.g. [CD-DSDI-11/5/3.1]

² Ms Scott for APC advanced point. Mr Burrell also accepted it [XX Burrell by COG].

³ The “blue line” plan, very recently produced on 2 November 2022, contains some limited additional areas including Hilfield Farm, Slades Farm, and an area to the south of the Proposed Development.

⁴ No technical reason for a limitation of 49.9MW has been advanced. It is now also clear from the 2022 resubmission that 49.9MW can be generated using less land, in particular by excluding Field 1 from such proposals. The Appellant has not said, for either proposal, how many panels will actually be required or used. It is the number of panels and their technology which dictate the power level: [XX Burrell by COG].

5. It would cover a significant amount of the agrarian, intact, open and rural countryside between Bushey, Borehamwood and Radlett.⁵ Each of those settlements is less than 1km from an edge of the Proposed Development.^{6,7}
6. It would impact on a whole range of heritage assets, including the Grade II* Listed Building Hilfield Castle, and the Scheduled Monument (“SM”) at Penne’s Place. The balance of the evidence before the inquiry is entirely clear in that respect.⁸ The only real doubt remains about the level of harms claimed. The other key DHA are: Slades Farmhouse, Aldenham House RP&G and the Lodge to Hilfield Castle.
7. It is based, given its regional importance,⁹ on an Alternative Sites Assessment (“ASA”) that is wholly deficient, and which by setting the rules of the game, ensured that only Green Belt sites in Hertsmere would be in play.¹⁰
8. It uses more land than it requires to do, by including Field 1 within the proposals. This approach remains, albeit apparently contrary to the Appellant’s own most recent heritage advice, and in taking that approach harm is being caused to a range of DHA that is entirely unnecessary harm.

⁵ The agrarian nature of the landscape is well illustrated by the Existing Vegetation Plan at [CD-ID19/5/Fig 3B]. Mr Kratt accepted the description of the land given in the LVIA at [CD-PA/15/33/7.2] and the Large scale effects to landscape character noted there [XX Kratt by COG].

⁶ [CD-ID12/4/2.1]

⁷ It is agreed that the Proposed Development is one planning unit.

⁸ Ms Kitts, Mr Billingsley and Dr Edis all agree that there would be harm to each of those assets (and more). Ms Stoten accepts there would be harm to Hilfield Castle (and two other DHA).

⁹ And in reality, in any event, much smaller schemes have failed for this reason. See, for example, the Tandridge decisions at [CD-ADCOG2] and [CD-ADCOG3].

¹⁰ This is because, like Tandridge and a few other similar MGB authorities (but *many* are different), outside of its built up area, Hertsmere is entirely MGB: [CD-DSDI-11/3/2.9]

9. It would seriously compromise, to the extent that it is doubtful they would really continue to be used,¹¹ a locally extensive series of public rights of way¹² (“PROW”) that link those settlements and provide a valuable resource for recreational opportunities in this attractive¹³ swathe of Green Belt land.
10. Those effects will last for at least 35 years (being the operational life of the development). That is a generation. It will be understood and perceived as permanent change.¹⁴ Seen in that light, the “*enhancements*” proposed are small beer, and should not in totality command any real weight in the overall planning balance.
11. It has attracted a massive local response, almost universally against the proposed development.
12. It is resisted by the Local Planning Authority itself, none of whose members voted for the Proposed Development.¹⁵ It is resisted by Aldenham PC, and by COG. The consistency of the main bases for resisting the appeal across those bodies is notable in itself.
13. It would be anathema to the plan led process – a process designed to facilitate sustainable development with appropriate community consultation and input -

¹¹ [XC Chris Berry, CPRE]. See also the DLA report at [CD-ID10b/App 2/10/section 7, in particular 7.5 and 7.6].

¹² Set out in Fig 7 of [CD-ID19], see also Mr Drummond’s material at [CD-ID12a/App A/p.3] and [CD-DSDI-11/3/2.7]. These PROW are retained as part of the proposal [DSDI-11/8/3.20], but the impacts upon them will be stark and adverse.

¹³ Mr Kratt accepted that the land was attractive [Kratt XX by COG]

¹⁴ [CD-ID12/15/5.1]. Mr Kratt accepted that, on the LVIA and GLVIA definitions “*permanent*” should have been used as the appropriate duration: [XX Kratt by COG]. That is because the operational period of 35 years is well above the period of 25 years used in each case as the upper limit of long term: [CD-PA15/9/Duration table], [GLVIA 91/5.51].

¹⁵ [XC Mrs Benedek]

to permit development of this scale by planning appeal in relation to an unallocated site.¹⁶

14. COG itself represents the various parties set out in Appendix 1 to its Statement of Case.¹⁷ These include a substantial number of local representative bodies and CPRE. It resists this appeal in the strongest terms. The importance of the scheme and its implications for the proper protection of Green Belt land are implicitly recognized in the SoS's decision to recover this appeal for his own determination.
15. The Appellant's reliance on the positive officer recommendation in the officer report ("the Officer Report") is misplaced. There are several errors and/or matters of mistaken approach within the report.¹⁸ In other key matters, whilst providing a view, it recognised that matters of planning judgment arose, which were for the members to decide.¹⁹
16. The benefits of renewable energy are properly recognised by all the participants to the inquiry. But a proper and appropriate approach to national energy policy does not require large swathes of the MGB to be given over to solar farming. Allowing this appeal would presage such an approach. Doubtless, that is why historically such appeals have very rarely been

¹⁶ Whilst it is correct to note that the emerging local plan process is currently paused, the Appellant does not rely on any of that emerging process, or any of the evidence base underpinning it, to suggest that the emerging plan would have lent support to the Proposed Development [XX Burrell by COG].

¹⁷ [CD-ID6a]

¹⁸ [XC Mrs Benedek]. To take four examples from [CD-PA27]. (1) The officer put the weighting of renewable power as "great weight", surpassing even the "substantial" weight for which the Appellant contends [56/10.13]. (2) The description of loss to openness of the Green Belt as "limited" is wholly remarkable and suggests an absence of properly considering the spatial implications of introducing 85 ha of built development into the Green Belt [99/12.6, last sentence]. (3) The observations about the nature of the change to the PROW is also remarkably understated [91/10.98, last sentence, and 10.99]. (4) The approach to the ASA did not account for considerations the SoS has shown are important, such as looking to avoid GB harm by looking outside the Green Belt [62/10.26-10.28]

¹⁹ For example, in relation to the key issue of heritage [72/10.46]

successful.^{20, 21} Emerging energy policy supports an approach aligned with those previous refusals, a qualitatively better approach than that embodied in the present proposal: An approach of using PDL and emerging improving technologies for placement on existing and proposed buildings; and, where demonstrated to be necessary, using greenfield land outside of the Green Belt.²² This is underscored by the deliberate decision in the NPPF not to give the provision of renewable energy a specific weighting,²³ compared to the heavy weightings deliberately imposed in relation the protection of the Green Belt, and DHA; both of which are explicitly recognised by the need to give substantial weight to all harm to the Green Belt,²⁴ and great weight to the conservation of DHA.²⁵

17. By contrast, the height of the case advanced by the Appellant is to say that the “*generation of 49.9MW of electricity*” should be given “*substantial*” weight.²⁶ Other parties advance a lower weighting. COG says, in the circumstances of this case, it should be given a moderate weighting.²⁷

Minimum levels of harm created by the proposal

18. It is worth remarking on the minimum levels of harm the Appellant accepts will be caused both to the Green Belt, to DHA, and to landscape and through

²⁰ [CD-ID11/15/4.9 per Mrs Benedek]

²¹ The appeal decisions Mr Burrell sought to produce by way of rebuttal (not admitted), and were therefore introduced as Core Documents at [CD-APAP13, 14, 15 and 16] are all hopelessly different from the instant case. A brief summary of their features is contained as Appendix 1 to these Closing Submissions.

²² See below re draft EN-3.

²³ See, e.g. §151 NPPF.

²⁴ NPPF, §148.

²⁵ NPPF, §199.

²⁶ [XC Burrell]

²⁷ [XC Benedek]

visual impacts affecting amongst other things the PROW network. This is recorded in the respective Statements of Common Ground.^{28, 29} They are well sufficient to condemn this appeal to failure.

19. If development is to be permitted in the Green Belt on land subject to the level of constraint and harm arising here, then the future for the integrity of the Green Belt, in terms of it housing regionally significant future solar farm projects, is bleak indeed.

20. It is also key to recall that, in relation to the assessment of heritage assets, the claimed “*enhancements*” provided in relation heritage are factored into the Appellant’s assessment of harm,³⁰ so care must be taken not to double count them as any further benefit of the proposed scheme.

21. In terms of Green Belt harm, the Appellant accepts:

- a. Definitional harm;
- b. Harm to openness of the Green Belt over the 85 ha of built development;
- c. Harm to Purpose 3 of the Green Belt.³¹

22. The Appellant correctly accepted that each of those forms of harm must be given substantial weight.³²

23. In terms of Heritage harm,³³ the Appellant accepts:

²⁸ [CD-DSDI-11] SoCG between the Appellant and LPA, dated 19.10.22

²⁹ [CD-DSDI-2] Heritage SoCG Summary Table

³⁰ [Stoten XX by LPA]

³¹ Namely, safeguarding the countryside from encroachment.

³² [IQ of Mr Burrell]

³³ All measures are less than substantial harm (as defined by national guidance and caselaw).

- a. Slade’s Farmhouse (Grade II LB) is harmed: low level;
- b. Hilfield Castle (Grade II* LB) is harmed: low level; and
- c. Hilfield Lodge (Grade II LB) is harmed: low level.

24. Of course, the other main parties have all independently by their respective experts assessed that a greater number of assets; and greater levels of harm, arise.³⁴

25. Finally, in terms of landscape harm, the Appellant accepts:

- a. Harm to the landscape (in particular the Borehamwood Plateau LCA, of which it is agreed the land is reflective)³⁵. The Appellant says this harm should be accorded moderate weight.³⁶
- b. Harm to visual amenity in the area. The Appellant says this harm, in addition,³⁷ should be accorded moderate weight.³⁸

The Development

26. The DAS³⁹ describes the development. Section 4 (p.9) sets out the nature of a solar farm.

- a. The panels will be up to 3m from ground level, with a face of 4.60m, and lengths varying by the number of units in the row.

³⁴ See the table in DSDI-2

³⁵ **[XX Kratt by COG]** – accepting the description at **[CD-PA15/34/7.2]** “*generally characteristic . . . of the [LCA]*”

³⁶ **[XC Burrell]**

³⁷ And correctly so.

³⁸ **[XC Burrell]**

³⁹ **CD-PA5**

- b. The x20 battery storage units, utilitarian shipping containers, will be 12m x 2.4 x 2.9 (h), plus the height of their base.^{40,41} The defined battery storage area lacks any screening from the footpaths through the Proposed Development, and will stand out, together with the substation as incongruous and discordant features in a previously agrarian landscape.
- c. The substation (next to the battery storage area) will be 11.65m x 4.05m x 4.05m (h), with an additional plinth of 0.65m high x 11.76m long and 4.13m wide.⁴²
- d. The sixteen inverters located throughout the site are in utilitarian shipping containers like the battery units, again with plinths.⁴³
- e. The control room is also of some size, measuring 6m x 3.05m x 3.93m (h) with a weather station up to 5.73m (h).⁴⁴
- f. The site security measures include the 2.2m deer fencing and CCTV poles located about every 50-70 metres at a height of 2.4m facing into the site.⁴⁵

⁴⁰ **CD-PA5/11/4.2.3**

⁴¹ The revised drawings indicate bases of 0.609m high by 2.885m wide [**CD-DSDI31**]

⁴² [**CD-DSDI26**]

⁴³ [**CD-DSDI29**]

⁴⁴ [**CD-DSDI30**]

⁴⁵ [**CD-PA4/12/4.2.6**]

The Development Plan (“DP”)

27. The DP is comprised of the Core Strategy (2013)⁴⁶ and the Site Allocations and Development Management Policies Plan (2016).⁴⁷ The DP is the statutory starting point applying s.38(6) PCPA 2004. Both parts of the DP were (necessarily) found sound in accordance with the NPPF 2012, and therefore consistent with national policy.⁴⁸ Further, para 202 NPPF 2021 is replicated by para 134 NPPF 2012, which was therefore in force at the material times. Neither the CS nor the SADMPP are out of date in that respect. Similarly, they are substantially up to date in relation to Green Belt provisions.
28. The SADMPP heritage and Green Belt policies are plainly meant to build upon the Core Strategy policies, and to be applied in the context of development management.⁴⁹ Therefore, compliance with both policies SADM26 and SADM29 is required. They both represent key elements of the plan as a whole, so a substantial failure to comply would amount to a failure to accord with the plan as a whole.
29. The Local Plan Core Strategy Objectives are set out in terms.⁵⁰ Objective 2 is *“To protect the Green Belt and its role in preventing urban sprawl and the coalescence of towns”*. It is no accident that the Objective specifically references Purposes 1 and 2 of the Green Belt. Bearing in mind there are only 4 recognised Main Settlements, the identified priority is to protect land development of which would (individually or cumulatively) erode the important gaps between settlements – and that is precisely what the Arup

⁴⁶ [CD-HBCLP1]

⁴⁷ [CD-HBCLP2]

⁴⁸ See, e.g. the Core Strategy at [CD-HBCLP1/10/1.8], para 182 of NPPF 2012 (tests of soundness).

⁴⁹ The Core Strategy, at [CD-HBCLP1/56/5.5, last sentence] makes this point in relation to Green Belt.

⁵⁰ CD-HBCLP1/21/Table 4

Green Belt study identified in relation to the relevant parcels.⁵¹ The need to prevent urban sprawl is doubtless expressly recognised both in relation to those four settlements, but also bearing in mind the relative proximity of Outer London to the Main Settlements, increasing the overall importance and fragility of those gaps.

30. Policy SP1, a key strategic policy, building on those objectives, requires all development across the borough to “. . . (vii) *avoid inappropriate development in the Green Belt; and . . . (xiii) conserve or enhance the historic environment of the Borough in order to maintain and where possible improve local environmental quality*”. It is common ground, based on the above, that the Proposed Development is in conflict with those limbs of the policy. It is in conflict with a key spatial policy and so in conflict with the plan as a whole.
31. SADM26⁵² requires development in the Green Belt to comply with the following principles “(i) *developments should be located as unobtrusively as possible and advantage should be taken of site contours and landscape features in order to minimise the visual impact; . . . (iv) the scale height and bulk of the development should be sympathetic to, and compatible with, its landscape setting and not be harmful to the openness of the Green Belt.*”. The wholesale failure of a scheme of this scale to comply with (iv) and, as a consequence to fail to comply with (i), shows further conflict with the Development Plan as a whole.
32. In similar vein, SADM29⁵³ states that the Council will not permit development proposals “*which fail to conserve or where possible enhance the significance, character and appearance of the heritage asset and its setting. The scale, design, use and character of the proposal will be taken into account . . .*”. In relation to Listed Buildings it states “*The Council will not permit development*

⁵¹ See below.

⁵² [CD-HBCLP2/50]

⁵³ [CD-HBCLP2/54]

proposals which would materially harm the setting or endanger the fabric of a listed building . . .”. The Proposed Development is clearly in conflict with those requirements. The conflict arises in relation to (i) scale (85ha built, 130 ha overall); (ii) design – industrial⁵⁴ and utilitarian⁵⁵ – jarring with the settings of the nearby range of heritage assets; (iii) use – industrial; and (iv) character of the proposal – a solar farm of regionally significant size.

The Metropolitan Green Belt

General

33. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.⁵⁶ The five purposes of the Green Belt are set out at para 138 NPPF 2021.
34. Hertsmere is 80% Green Belt. 80% is a high figure which indicates, by itself, the level of local constraint. But without further analysis it masks the true picture. Outside of the urban areas Hertsmere is Green Belt. It has no countryside land “beyond the Green Belt”, as many other MGB authorities do.
35. The Proposed Development is inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.⁵⁷

⁵⁴ Per Mr Billingsley at [CD-ID13/40/167] and Ms Kitts [CD-ID9a/39/5.13]

⁵⁵ [CD-ID9a/39/5.13]

⁵⁶ NPPF §137

⁵⁷ NPPF §147

36. Substantial weight is given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm⁵⁸ resulting from the proposal, is clearly outweighed by other considerations.⁵⁹

37. Planning Practice Guidance⁶⁰ “PPG” draws attention to (amongst other things):

- a. The need to encourage effective use of land by focussing large scale solar farms on previously developed land and non-agricultural land;
- b. The proposal’s visual impact, including by way of glint and glare, and impact on neighbouring uses;
- c. The need for, and impact of, security measures such as lights and fencing;
- d. The need to take great care in ensuring heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their settings taken.

38. Notably, in NPPF §150 – 151, Government chose not to include renewable energy projects within those types of development which might not be inappropriate development even though, for example, mineral extraction is included. Rather, the height of the policy endorsement within Green Belts is to say that “*very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources*”. Accordingly, there is no NPPF requirement to weigh this positively

⁵⁸ It is well established that, in applying NPPF §148 “*any other harm*” is not limited to any other Green Belt harm: Redhill Aerodrome v Ltd v. SoSCLG [2014] EWCA Civ 1386.

⁵⁹ NPPF §148

⁶⁰ ID:5-013-20150327

in the balance, although COG accepts for the purposes of this appeal it should attract some positive weight, at 49.9MW.

Inappropriate development

39. It is common ground the proposed development is inappropriate development,⁶¹ and therefore definitional harm arises.

Harm to openness

Spatial

40. The harm to openness is serious and on a massive scale at 85ha. The land will be industrialised.⁶² The panels will appear incongruous⁶³, alien⁶⁴ and discordant in this undulating, open, agrarian environment. In reality, a much greater part of the 130ha overall is likely to read as developed built form. In it's SoC COG noted that the actual number of panels proposed is not defined, approximated, or illustrated within the Application. The R6P believed that the number of panels is likely to exceed 120,000.⁶⁵ No evidence has been called to rebut that estimate.⁶⁶

41. The panels themselves are substantial, standing up to 3m high and spaced closely together in rows. They will appear by parallax and general views as a solid mass.⁶⁷

⁶¹ **CD-DSDI-11/29/9.2; CD-ID16/16/8.11**

⁶² This point has been noted consistently by numerous experts for the LPA, APC and COG.

⁶³ **[CD-ID12/6/3.6]**

⁶⁴ **[CD-ID11/23/4.33], [CD-ID10b/App 3/22/last box]**

⁶⁵ **CD-ID6/5/19**

⁶⁶ Mr Burrell did not know how many panels are proposed to be used **[XX Burrell COG]**

⁶⁷ **[Mr Drummond XX]**

42. There are a large number of other features which will add to the built upon, and industrialised appearance of, the site (as summarised above from the DAS):

- a. Large amounts of (high) fencing, at 2.2m;
- b. The battery units and substation;
- c. Transformers; and
- d. Inverters, across the site in utilitarian shipping containers with dimensions;
- e. Security cameras, providing full 24 hour surveillance around the internal perimeter. The cameras will be inward facing on poles of up to 2.4m high, as they will be spaced at approximately 50m-70m along the fence;⁶⁸ multiple cameras will be visible in views.
- f. Access and internal roads made of, in part, compressed concrete; to a width of 3.5m – 6m wide.⁶⁹

43. The security fencing will be particularly intrusive at close quarters, where footpaths cross fields, and especially where security fencing is proposed on both sides. Even within the landscaped areas, when the landscaping proposals mature, to the extent the fencing itself may be softened, an inappropriate channelling effect will remain.

44. The channelling effect will be exacerbated by the regimented placement of the solar panels themselves which will be in close proximity to, and exceed the height of, the fences. The proposed set back of the fencing from the footpaths will not substantially remove those impacts, which will continue over long

⁶⁸ [CD-DSDI11/7/3.14]

⁶⁹ Ibid 7/3.16

periods (often exceeding 100's of metres at a single stretch.⁷⁰ The fencing will be substantially higher than an average adult; and the height of the solar panels another 0.6m on top of that.⁷¹ An impact not unlike that of the modern thriller film, *Maze Runner*, may be created, which no amount of tussocky grass will mitigate. The substantial extent to which the channelling effect will arise is shown in Mr Drummonds' evidence.⁷² It will impact upon PROW including Aldenham 30, 32, 40, 42, 43, 44 and Bushey 38.⁷³

45. To the extent that the presence of the built solar farm leads to a situation where the mitigation required is hedgerows growing to 5m or 7.5m high along pathways, that will have its own impacts in relation to the general spatial openness of this area of Green Belt – it will be mitigation arising as a consequence of built development. It will have visual implications in relation to (a) the open views presently available, (b) those which are only filtered in part through grown out hedgerows, and (c) in relation to use of the PROW.⁷⁴

Visual

46. The harm both to landscape, but most importantly to visual amenity, is set out in Mr Drummond's evidence. Even on the conservative basis that the value of the land for those using it is community rather than district,⁷⁵ his Summary of

⁷⁰ [XX Kratt by COG] Examples exist of 250m (between Field 3/Field 4 and Field 5, past the large substation and battery storage), 275m (Field 7 heading SW to Field 19, 250m (Aldenham Road NE to the top of Field 19), and 700m (from Butterfly Lane adjacent to Slade's Farm, heading N along Field 16, alongside Field 15 and through Field 14 to Watling Street).

⁷¹ See Mr Drummond's cross section at [CD-ID12a/9/App D]

⁷² ID-12a/3-4/ App A

⁷³ CD-ID12/11/4.12

⁷⁴ Further, insofar as the mitigation proposals envisage "infilling" and "gapping up" of hedgerows, Mr Drummond's view was that was unlikely to be successful without a minimum gap of 5m length from an existing established hedge.

⁷⁵ The Appellant put it at district for the Borehamwood Plateau LCA [CD-PA15/29/5.7.2 – last para], confirmed by Mr Kratt [XX Kratt by COG], specifically on the basis that the land was valued to a level akin to it having a local or regional designation: [CD-PA15/7/Landscape Value table].

Effects Table⁷⁶ indicates Major adverse impacts from 8 representative viewpoints, Moderate harm from 3 more, and slight harm for the remaining 3. It amounts to additional harm to the Green Belt.

47. The Appellant's evidence fails to demonstrate, by any verifiable photomontages, what any of the views of the development would look like after 5, 10 or 15 years. This is a serious shortcoming⁷⁷ in any project of this scale when Green Belt, substantial landscape and major visual amenity harm are all said by the LVIA and the main parties to arise, but especially so when those harms are acknowledged by the Appellant and the LVIA itself. GLVIA suggests a 15 year comparison.⁷⁸ Equally, 10 years might have been chosen in this case, as the LVIA chooses the period of 10 years as being the stage at which mitigation is said to have significant beneficial impacts;⁷⁹ but that was not done either.
48. Nor are the photomontages sufficient in terms of coverage – for example VP/4 and VP/6, where large visual impacts can fairly be anticipated, are without any photomontages.
49. Third, the photomontages do not embrace the full impact of some of the most harmful areas of the development, such as the interface between Aldenham 44 and Aldenham 40 in Field 14.⁸⁰
50. Lastly, the photomontages and other visual representations fail to address seasonal change. Again, this is contrary to best practice as illustrated in

⁷⁶ **ID-12a/10/App E**

⁷⁷ The experts from the LPA, COG and APC all remarked, in different terms, on this failure to illustrate the likely effect of mitigation: [**G Drummond XC**]; **CD-ID10b/App5/3/2.2, App5/10/6.6**

⁷⁸ As Mr Kratt accepted [**XX Kratt by COG**], GLVIA p.141.

⁷⁹ [**CD-PA15/37/Table 2 – Medium Term impacts c.f. Long Term / Semi-Permanent Impacts**]

⁸⁰ Illustrated by Mr Drummond at [**ID-12a/App C/p.8 – Viewpoint 9**]

GLVIA.⁸¹ No good explanation has been given for this. It is an especially puzzling omission given the gestation period of the application and appeal, and that a number of the Appellant's heritage views are winter views.⁸² Nevertheless, there can be no doubt that the effects in landscape and visual impact terms are likely to be significantly more pronounced in winter.⁸³

51. As well as the clear open views throughout and around the site, the undulating characteristics of the surrounding land mean that views from farther afield are also likely. Mr Drummond gives one clear example from FP Aldenham 017 at Batlers Green,⁸⁴ which had not apparently been picked up by the LVIA analysis. It is clear from this VP, VP A1, that a number of fields containing panels will still be seen once the landscaping matures. Clear views across the site to Slades Farm are also available. Similarly, from VP A2,⁸⁵ taken from FP Bushey 038 views which are currently wide and open will be cluttered with solar panels which will continue to be seen into the long term.

52. The extent of the Large Adverse views the Appellant accepts will arise from representative viewpoints for up to 10 years (and from a number of representative viewpoints after that), appear from the Viewpoint table.⁸⁶

53. Accordingly, the mitigation will be of little effect, certainly in the short term. Leaving the details of final mitigation over to condition necessarily leaves a substantial degree of uncertainty in the situation where different harms may influence mitigation in different ways. If the response favours landscaping and visual impact treatments, then the residual harm for heritage and use of

⁸¹ GLVIA3 p.143.

⁸² See, e.g. [CD-ID18/76-78/Plates 68-70]

⁸³ [CD-ID12/12/4.16, 14/4.20], [GD oral evidence]

⁸⁴ CD-ID12a/6/App B

⁸⁵ CD-ID12a/7/App B

⁸⁶ [CD-PA15/37/Table 2]

PROW may be higher. These three features are, as Mr Kratt accepted, in tension.⁸⁷ This tension, and perhaps the inability to successfully square the circle provided by the key constraints which relate to development at this site, is well demonstrated by the continued revisions of the landscaping material into the third week of the inquiry.⁸⁸ In any event, mitigation of a scheme will normally be considered neutral in the overall Green Belt balance.⁸⁹

Harm to purposes

Purpose 3 - encroachment

54. The harm that will be caused to the purposes of the Green Belt is additional to the harm set out above. It is common ground that Purpose 3⁹⁰ will be infringed: the development will encroach into the countryside. Given the vast scale of the development, the level of encroachment will be commensurately large and harmful.

Purpose 2 - merging

55. The large scale of the development is again in play in considering Purpose 2. Figure 2B: Green Belt at 1:60,000 scale shows the picture well,⁹¹ as does the 1:25,000 site location plan.⁹²

56. The proposed development, at its boundaries, is only:

⁸⁷ [XX Kratt by COG]

⁸⁸ As well as the significant revisions made to accommodate points from Mr Drummond's evidence regarding the substantial incompleteness of the existing materials.

⁸⁹ See e.g. [CD-ADCOG1/7/DL30]

⁹⁰ This assumption is drawn from the acceptance within the general SoCG that "*The parties agree that there would be harm to openness and to Green Belt purposes, but disagree on the extent*": CD-DSD11/29/9.2. Mr Burrell is more explicit: CD-ID16/18/8.31 – 8.33; but his evidence is unrealistic as to the scale of harm caused by 85 ha of built development on a 130 ha site.

⁹¹ CD-ID19/Fig 2B

⁹² CD-ID19/Fig 1

- a. 250m east from the town of Bushey (which itself is almost contiguous with Watford);
- b. 750m west of the town of Borehamwood; and
- c. 790m south of Radlett.

57. Accordingly, each of those gaps is well under 1km. It is common ground that all three of those settlements are identified in the Core Strategy as 3 of the 4 Main Settlements in the borough.⁹³ As already shown, the PROW link all three of those settlements, which lie in close proximity within the Green Belt. In each case, there are 3 fields or fewer separating the site from the relevant settlement.⁹⁴ And on each occasion there are footpaths in the vicinity.⁹⁵ In addition, Letchmore Heath lies approximately 530m to the north, and Patchetts Green 1km to the northwest.

58. The Proposed Development will serve to substantially reduce both the actual extent to which the Green Belt is permanently open and free from built development between those settlements, as well as the existing perception of space between those three settlements, by introducing industrial form at a large scale set between those three settlements, and across well used and extensive PROW currently existing between them.

59. It is, plainly, not necessary to destroy entirely the gap between Main Settlements for Purpose 2 to be engaged.

60. The value of this land for Purposes 2 and 3 is spelt out in the Arup⁹⁶ Green Belt Stage 1 assessment, which is the most up to date analysis carrying out a

⁹³ CD-HBCLP1/33

⁹⁴ [CD-ID19/Fig 1 – Site Location plan]

⁹⁵ [CD-ID19/Fig 7 – PROW plan]

⁹⁶ Arup have substantial experience of providing this kind of comparative analysis [XX Kratt by COG].

comparative survey (across the entire district) of the relevant parcels of Green Belt land.⁹⁷ The extract⁹⁸ contained in the Planning Statement⁹⁹ contains the relevant text.

61. In short, parcel 9 was identified as having “*moderate*” Green Belt value, the second highest available value; and parcel 19 was identified as having “*strong*” Green Belt value.¹⁰⁰
- a. Parcel 9 scored 3/5 for Purpose 2 and 3/5 for Purpose 3. On Purpose 2, the assessment includes the following “*The parcel forms a small part of the essential gap between Borehamwood and Bushey Heath/Bushey Village and part of the wider gap between Bushey Heath/Bushey Village and North Bushey, and Borehamwood and Radlett. The parcel plays an important role in maintaining the general scale and openness of these gaps, with the gently undulating character of the parcel affording some distant views northwards towards Watford and southwards towards Bushey Heath/Bushey Village*”. The Purpose 3 narrative refers to “*a largely open character . . . which consist[s] of open arable fields bounded by hedgerows of varying density and consistency. This landscape, together with the gently undulating topography, allows for some long views across open countryside to the edges of settlements*”.
 - b. Parcel 19 scored 3/5 for Purpose 2 and 5/5 for Purpose 3.¹⁰¹ On Purpose 2, the assessment includes the following “*This parcel forms*

⁹⁷ Carried out by independent consultants.

⁹⁸ [CD-PA4, Figures to Appendix 1 at adobe pages 80-92]

⁹⁹ CD-PA4

¹⁰⁰ [CD-PA4 adobe p.83]

¹⁰¹ In addition, it scored 3/5 for Purpose 4. While no freestanding point is taken on this, it serves further to highlight the positive characteristics of this area of the Green Belt and its relationship with Radlett’s historic area [CD-PA4 at adobe p.91].

part of a wider gap between Radlett, Borehamwood, Elstree, Bushey Heath/Bushey Village and North Bushey, where the scale of the gap is such that there is little risk of settlements coalescing,¹⁰² but where the overall openness is important to preserving the perceived gap between settlements". On Purpose 3, the narrative includes "Approximately 3% of the parcel is covered by built form and it is characterised by a strong rural character throughout . . . The only significant development . . . The remainder of the parcel consists of very open agricultural fields with long views and very little development".

62. The LDA assessment of the GBA,¹⁰³ like other elements of the Appellant's case, focusses far too narrowly on subjective points about relative visibility and perception.¹⁰⁴ The inspector will form her own views about those issues, but at all events wider considerations were in play in relation to openness and the purposes of the Green Belt.

Purpose 1 - sprawl

63. The proposal will contribute to urban sprawl, due to both scale and location, towards the periphery of London and between the three main settlements set out above. It is true that the development does not physically adjoin any of the settlements, but that is not *necessary* to a conclusion that urban sprawl is occurring for development on this scale. It is not necessary for the final dot (or field) to have been joined for these purposes.¹⁰⁵

Very special circumstances

¹⁰² The authors had probably not envisaged a single development at the scale of two local villages combined.

¹⁰³ [CD-PA4/adobe pp.61-78]

¹⁰⁴ See, in particular, [PA4 at adobe pp.72-73]

¹⁰⁵ The Arup study is conservative in that respect, limiting itself, as it does, to development which physically adjoins existing settlements.

64. The various benefits claimed in respect of the Proposed Development are dealt with below, but at this stage attention is drawn to the importance the SoS and inspectors have routinely placed on the importance of an appropriately thorough search for alternative sites, so that it is demonstrated that the harm required to the Green Belt cannot be avoided. This issue is addressed further below (in the Benefits section).

Overall

65. The case for substantial Green Belt harm is clear. The benefits analysed below do not come close to clearly outweighing the totality of the various harms that have been identified.

Landscape and visual harm

Visual amenity

66. The issue of visual harm has been addressed above in the context of the Green Belt. But even in the absence of the Green Belt designation it would stand for itself as an important material planning consideration militating against the development.

Landscape harm

67. The level of landscape harm is indicated by GLVIA 3 para 5.50, which requires consideration of landscape harm at four different levels of remove. It relates to the scale of the proposed development and simply reinforces the need for sites which will house 130ha worth of development, with 85 ha of built development, *if* they are otherwise justified, to be located in areas where landscape harm will truly be minimised.

68. The characteristics of the landscape locally do not provide such an opportunity, having the qualities of being undeveloped, gently undulating, agrarian, open, and intact.

69. The proposed development causes harm at all four identified levels in GLVIA3 para 5.50. It causes harm: at the site level; at the level of the

immediate surroundings; at the level of the LCA – Borehamwood Plateau; and in the adjacent LCA – Aldenham Plateau.¹⁰⁶ It is common ground that harm arises at three of those levels. The Appellant acknowledges Moderate harm to the Borehamwood Plateau LCA even in the “*long-term/semi-permanent*” duration.¹⁰⁷ For the first 10 years the effect is assessed as Major-Moderate adverse. The proposed development makes up a significant portion of the entirety of that LCA.¹⁰⁸ The apparent failure of the LVIA to adequately analyse impacts from the adjacent Aldenham Plateau LCA means that substantial effects from that LCA cannot be discounted.

70. However, even those conclusions by the Appellant was based on a misapplication and conservative approach to its own LVIA criteria. In particular: the approach to Duration was wrong – permanent should have been used; and the approach to Extent was wrong – Intermediate should have been used, based on a site size of over 2.5km (even on the conservative assumption that effects stopped at the site edge).¹⁰⁹

Heritage

71. There are four initial features to note, beyond the extent of the Appellant’s accepted levels of harm to DHA (which of course go substantially beyond the basis upon which the Planning Application was predicated).¹¹⁰

¹⁰⁶ The LCA are shown at [CD-ID19/6/Fig 4]

¹⁰⁷ CD-ID12a/10/App E, [CD-PA15/36/7.3.1]

¹⁰⁸ Mr Kratt made clear that the updated calculation showing a reduced proportion of the LCA was in play did not affect the LVIA conclusions in this respect [XX Kratt by COG].

¹⁰⁹ The site width being above 2km as put [XX Kratt by COG] (Field 1 to Field 14 is 2.8km).

¹¹⁰ The Planning Application was prepared and initially submitted in reliance on the DBA at [CD-PA13], which found only LSTH to Slade’s Farmhouse: [CD-PA13/14, last paragraph]. Although, illogically, the DBA found in relation to the SM, Penne’s Place, that “*The agricultural land north of the monument (within the PDA) contributes to the significance as it reflects the historic setting of the moated site*” [CD-PA13/11/last para]. As Historic England pointed out, on that basis harm to the SM by the Proposed Development should have been found [Historic England letter of 16.2.21, p.2 para

- a. First, there is a large measure of common ground¹¹¹ amongst the experts (excluding Ms Stoten) as to which other assets are harmed *and why*.¹¹²
- b. Second, it is common ground that Hilfield Castle, and the SM at Penne’s Place, are entitled to be regarded as having the highest levels of significance in accordance with NPPF §200(b). The Core Strategy identifies Penne’s Place as one of “*The Borough’s four Scheduled Ancient Monuments*” describing them as “*critical local assets*”.¹¹³
- c. Third, in relation to each DHA the opinion of Ms Stoten as to the scale of harm is in conflict with at least 2 of the other experts.^{114,115}
- d. Fourth, as identified above, where Ms Stoten indicated levels of harm, those harms had been netted off against the benefits she considered would arise as a consequence of the claimed “*enhancements*” within the Proposed Development.

72. Accordingly, harm to DHA being clear, the starting point is that there is a “*strong presumption*” that planning permission should be refused for this reason alone.¹¹⁶

1]. Whilst some changes were undertaken following pre-application advice, as Ms Kitts said, they did not comply fully with the pre-application advice [XC Kitts].

¹¹¹ In an area which necessarily, involves significant elements of professional judgment.

¹¹² That includes the views offered by Historic England and other statutory consultees.

¹¹³ [CD-HBCLP1/59/5.20]. Para 5.17 of the CS notes that the 2005 householder survey revealed that protection of listed buildings was a top priority amongst local residents (as was Green Belt protection)

¹¹⁴ [DSDI-2]

¹¹⁵ Accordingly, if any professional view is the “*outlier*” on this topic – it is that of Ms Stoten.

¹¹⁶ East Northamptonshire DC v. SoSCLG [2014] EWCA Civ 137; [2015] 1 WLR 45 at [23] per Sullivan LJ. Section 66(1) requires decision makers to give “*considerable importance and weight*” to the desirability of preserving the setting of listed buildings, and thus to any harm to setting. LTSH is not a “*less than substantial objection to the grant of planning permission*” [29]

73. The inspector will, of course, reach her own assessment in relation to the levels of harm to each of the DHA. If it is necessary to prefer one witness over another, the views of Ms Kitts and Mr Billingsley should be preferred. The Council will doubtless speak for Ms Kitts,¹¹⁷ but in relation to Mr Billingsley COG invites the inspector to conclude that his evidence was (a) thorough;¹¹⁸ (b) moderate and measured; and (c) substantially unshaken during XX. He followed and applied the central guidance in GPA3¹¹⁹ in a transparent, coherent, and ultimately persuasive way, considering each of the applicable elements.

74. In contrast, Ms Stoten (a) refused to acknowledge the elephant in her proof of evidence – the lack of any *real* recognition of, or grappling with, the nature and scale of the industrialisation of the setting of this range of assets, and the utilitarian nature of the design and materials;¹²⁰ (b) unduly focussed simply or primarily on matters of current intervisibility,¹²¹ rather than overall experience; and unduly concentrated on matters of tenancy rather than more enduring ownership and control.¹²² (There was a curious uniformity of approach from the Appellant in this respect – Mr Kratt preferring the anodyne label of a “*change*” of character, to any acceptance of an industrialised character being imposed on the landscape.¹²³)

¹¹⁷ But COG would note that Ms Kitts again, transparently and coherently, followed through in detail the various steps and points noted in GPA3.

¹¹⁸ Involving 3 site visits to the land.

¹¹⁹ [CD-NPP11]

¹²⁰ [XX Stoten by COG]

¹²¹ [CD-ID18/8/2.15, 81/6.47-6.49]

¹²² [XC Billingsley], [XX Stoten by COG]

¹²³ [XX Kratt by COG]

75. In relation to each of the DHA where Mr Billingsley found identified levels of harm, he set out in summary form his conclusions, which are not repeated in detail here as they speak for themselves. The relevant references are:

- a. For Slade's Farmhouse – moderate harm.¹²⁴
- b. For Aldenham House RP&G – minor (low) harm.¹²⁵
- c. For Penne's Place (SM) – minor (low) harm.¹²⁶
- d. For Hilfield Castle (Grade II*) – moderate harm.¹²⁷
- e. For the Lodge at Hilfield Castle – moderate harm.¹²⁸

76. The recognition of the transforming effect that industrial development at such scale would have on the setting of the relevant DHA and its prevailing open agrarian nature is a feature of Mr Billingsley's evidence,¹²⁹ as it is of Ms Kitts.^{130, 131} It is an overarching feature tying the setting of these assets together in light of amongst other things (a) their close geographic proximity to each other and the site; the Hilfield group of assets; and (c) common historic land ownership, leading to important changes in the way the assets will be experienced.

¹²⁴ [CD-ID13/18/66-68]

¹²⁵ [CD-ID13/25/99]

¹²⁶ [CD-ID13/29/115]

¹²⁷ [CD-ID13/36/149-151]

¹²⁸ [CD-ID13/36/173-176]

¹²⁹ [CD-ID13/36/149, 18/66, 24/95, 40/167]

¹³⁰ [CD-ID9a/21/4.49, 4.52; 25/4.63-4.65; 33/4.98; 39/5.12] by way of example.

¹³¹ Mr Lane of DLA also offered the same view, from a landscape perspective: [CD-ID10b/App 2/17/9.11, 20/10.3, 21/10.11]

77. There is further broad consensus about the importance of Hilfield Castle, its choice of siting so as to present commanding views over extensive areas of countryside,¹³² and the fact that, as parts of the setting of such an important asset may be comprised, so what remains becomes more precious.¹³³

78. It is in that context that the Proposed Development, transformative of the setting of Hilfield Castle, is proposed.¹³⁴ It is in that context, and belatedly in recognition of this issue, that the Appellant now pursues their subsequent “free go” application for planning permission, having purposefully removed Field 1 from that application on the advice of their heritage consultant (and witness) Ms Stoten.

Conclusion on heritage

79. There is harm to a range of DHA including those requiring the highest levels of protection. This factor weighs heavily against the Proposed Development.

80. It falls to be added to the Green Belt balancing exercise as part of the “*other harm*”.¹³⁵ It is the totality of all of these harms that the Appellant must ultimately demonstrate have been “*clearly outweighed*” by the claimed benefits of the scheme.¹³⁶

Public rights of way

81. This issue has been substantially addressed above, but the way the Proposed Development would seriously erode the recreational and other use of the

¹³² [CD-ID9a/40/5.14 per Ms Kitts]; [CD-ID10b/App 3/12/4.5-4.8 per Dr Edis]

¹³³ [Acceptance by Mr Tucker KC in questioning witnesses], [Oral evidence of Mr Billingsley], [CD-10b/App 3/14/4.11, 4.13 per Dr Edis], the latter comment being made in relation to a similar issue at Slade’s Farmhouse.

¹³⁴ The Plates and Figures provided by Mr Billingsley provide the context and setting of the Castle at [CD-ID13d/Plates 11-14] and [CD-ID13c/Figures 26-27].

¹³⁵ [XX Burrell by COG]

¹³⁶ [XX Burrell by COG]

extensive PROW in the locality is a material planning consideration. There is increasing recognition in Government guidance, and in practice, of the value that such resources can provide to the general public; and that recreational use of the Green Belt should be fostered and encouraged.¹³⁷ It is a factor of substance to weigh in the balance.

Loss of agricultural land

82. This is a further material planning issue weighing against the proposal. The information submitted in support of the Appeal is not comprehensive, comprising only a semi-detailed survey, apparently undertaken during wet conditions and leading to the conclusion that the only reason the land was grade 3b was due to its wetness. There is, accordingly, a measure of further uncertainty surrounding this issue which can also weigh against the Proposed Development.¹³⁸

83. In any event, the loss of moderately productive grade 3b land, which has been in active use, for a period of 35 years (and possibly more), counts against the Proposed Development.

The benefits

Renewable energy

84. The provision of a deliverable¹³⁹ regionally significant solar farm for energy production and battery storage is a significant positive in the balance. In reality, seen against the policy context of Green Belt, heritage, and landscape considerations, it is the only substantive benefit that arises from the Proposed Development. It is entitled to moderate weight. Beyond that, it is important

¹³⁷ NPPF, §145.

¹³⁸ By way of analogy see [CD-AGCOG3/DL/8].

¹³⁹ There is no benefit in the provision of a scheme which could not be delivered.

not to double count claimed benefits which really fold into this acknowledged benefit.

85. The Appellant has laid (undue) stress on the enthusiastic comments of the Council's Climate Change and Sustainability Officer in the Officer Report.¹⁴⁰ But that is what they are: officer comment. They are such comment in a report that, overall, has significant flaws. No other individual seeks to give this benefit the "*great weight*" ascribed to it at para 10.13. The members clearly did not see it that way.

86. Similarly, reliance on national figures for renewable energy production in this case is likely to be substantially misleading: Hertsmere is Green Belt outside its urban area. No analysis has been put forward, in the ASA or elsewhere, to compare Hertsmere to other MGB authorities, still less to other MGB authorities with such a high proportion of Green Belt outside their urban boundaries. It is utterly unsurprising that such an authority is below the national average; it would be staggering (and suggest something had gone seriously amiss) if it were higher.

87. Substantial reliance on draft EN-3 is also mistaken. As a draft (for over a year) it commands little weight. But even taking it into account, it weighs against this Proposed Development: It provides no express support for Green Belt development for solar farms (in contrast to various other land forms).¹⁴¹ It seeks to avoid the use of agricultural land.¹⁴² It adopts a cautionary approach towards the assessment of unknowns or uncertainty in terms of mitigation [etc.].¹⁴³ In this case, the lack of clear information about the implications of the proposed mitigation has already been addressed.

¹⁴⁰ [CD-PA17/54/10.11 – 10.13].

¹⁴¹ [CD-NPP17/83/2.48.13, 2.48.15 last sentence.

¹⁴² [CD-NPP17/83/2.48.15 last sentence] (mirroring the PPG).

¹⁴³ [CD-NPP17/85/2.49.17]

88. The NPPF has been very recently revised, and it does not begin to suggest the Proposed Development of this type, with the identified harms, is acceptable or represents sustainable development. It does not.

The Alternative Site Assessment (“ASA”)

89. The need for an adequate ASA is clear: It is to demonstrate that harm to the Green Belt (and other similarly important kinds of harm) cannot reasonably be avoided.

90. It would have been clear to any experienced solar farm team, consulting the policy map of Hertsmere, that with parameters set to (a) locating a site within 5km of the substation with which a contract was required; and (b) having a land-take of at least 80 ha, that Green Belt land would be required. It is inevitable that was known before the relevant contracts were entered into. The corollary is that there was never a prospect of this Proposed Development being less than an 80 ha land-take of Green Belt land.

91. Seen in that context, the ASA¹⁴⁴ is manifestly deficient. It would have been so for a development a magnitude of order smaller, as the Tandridge cases decided by the Secretary of State demonstrate. The need to look outside a Green Belt authority has been stated in far more modest proposals, for example the 5.25MW scheme at Redeham Hall, Smallfield,¹⁴⁵ and the Barrow Green Farm, Lingfield¹⁴⁶ proposals (in 2014 for 12.5MW, and in 2016 for a smaller scheme). Many other examples exist to the same effect.¹⁴⁷

92. It is obvious that in a case involving development at much larger scale, providing power to the national grid, the need for a comprehensive ASA

¹⁴⁴ [CD-PA44]

¹⁴⁵ [CD-AGCOG2] at IR/§§24, 39, 41, 59, 60.

¹⁴⁶ [CD-ADCOG3] at DL/§13, 17 and IR/§§65, 71, 75

¹⁴⁷ See, for further examples, [CD-ADHBC12] – Land to the West of College Farm, Walsall (3.6 MW), at DL/§19 and IR/§§116-120; and [CD-ADCOG1] at IR/§§24-25.

becomes even more pressing to demonstrate that the benefits of development clearly outweigh the harms. That will not be the case if the harms can or may be avoided. Solar development is relatively footloose in terms of renewable power. Connections can be made, if appropriate, to pylons for example.¹⁴⁸ There is no planning logic for stopping at an administrative border. There is simply no evidence before this inquiry that this Green Belt harm could not be avoided.

93. It does not matter, for present purposes, whether the deficiencies in the ASA are held to diminish the case for VSC; or whether they reduce the weight that would otherwise be given to the generation of renewable power.¹⁴⁹ In either case, they reflect negatively in the planning balance, and substantially so.

94. The ASA is a damning indictment of a choice made without reference to whether better options, far more policy compliant options, were available.

Landscape enhancement

95. The landscape will not be enhanced. Overall it will be harmed.

Ecological enhancement

96. These benefits are very modest. They also cause changes to the landscape which are not consistent with the currently existing open agrarian nature of the landscape. There will be changes to the landscape which would not be thought positive if they happened independently of the Proposed Development.¹⁵⁰

ALQ

¹⁴⁸ [XX Burrell by LPA]

¹⁴⁹ As the inspector at Hilfield Farm appears to have done [CD-ADCOG1] at DL/25.

¹⁵⁰ [CD-ID11/18/4.20]

97. This point does not raise any MPC of weight. ALQ could be improved by other means. The logical disconnect of this point from justifying a 35 year solar farm is enormous. There is no *evidential* indication of difficulty in using the agricultural land, which enjoys a grade of at least 3b. The benefit, should it arise, is presumably only available more than 35 years hence, and then only if agricultural use is resumed, which is unclear.

Economic benefits

98. These are modest compared the levels of harm and would result regardless of location. They are short term. They should not attract any real weight. Paying business taxes under legal compulsion should not attract any real weight.

New permissive rights of way

99. These are makeweights. There is no indication that functionally the permissive right of way near the football club overcomes an existing problem, or that it would be used in preference to the desire line of the existing PROW.

100. Similarly, the second would simply permit what is already tolerated, and would in any event yield no significant benefits.

101. In no way do they begin to meet the harm caused to the PROW identified above.

Provision of educational strategy

102. This could be expected whatever the location of the development. It is de minimis in the scheme of things.

Conclusions

103. The Proposed Development is contrary to central elements of the DP. It is contrary to the DP as a whole.

104. The Appellant has failed to demonstrate that the benefits of the scheme clearly outweigh the harm to the Green Belt and any other harm (including the

harm by reason of heritage, landscape, amenity (footpaths) and loss of agricultural land).

105. Similarly, the Appellant has failed to demonstrate that the benefits exceed the heritage harm to the range of heritage assets set out above.

106. For the reasons set out above the Inspector is respectfully invited to recommend to the Secretary of State that the appeal should be dismissed.

WAYNE BEGLAN

CORNERSTONE BARRISTERS

4 NOVEMBER 2022