



ASHFORD
BOROUGH COUNCIL

Proof of Evidence of Matthew Durling in respect of:

Land south of M20, Church Lane, Aldington, Kent

Appeal by:

EDF Energy Renewables Limited (trading as EDF Renewables)

Against refusal to grant full planning permission for:

Installation of a solar farm with a generating capacity of up to 49.9MW
comprising: ground mounted solar panels; access tracks; inverter/transformers;
substation; storage, spare parts and welfare cabins; underground cables and
conduits; perimeter fence; CCTV equipment; temporary construction compounds;
and associated infrastructure and planting scheme.

Appeal Reference: APP/E2205/W/24/3352427

Planning Application Reference: 22/00668/AS

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1.0 Introduction

- 1.1 I, Matthew Durling, have been employed by Ashford Borough Council (the “Council”) as a Deputy Team Leader (Strategic Applications) in the Planning and Development Department since March 2021. I hold a Bachelor of Arts Honours degree in Economics with Geography awarded by Exeter University and a Master’s degree in Town Planning awarded by Newcastle University. I am a Licentiate Member of the Royal Town Planning Institute (RTPI). I have 19 years post qualification experience in town planning within Local Planning Authorities in Kent and London. I have appeared as a professional expert witness in several Public Inquiries.
- 1.2 I became the planning case officer for the development the subject of this appeal in January 2023 when the previous planning case officer left the Council. I am familiar with the appeal site and the surrounding area.
- 1.3 This Proof of Evidence concerns the appeal against the Council’s decision to refuse planning permission for the development of a solar farm with a generating capacity of up to 49.9MW on Land south of M20, Church Lane, Aldington (the “Site”).
- 1.4 The evidence that I provide in this Proof of Evidence is true to the best of my knowledge and has been prepared and is given in accordance with the guidance of my professional institution. The opinions expressed are my own and are formed from professional judgement based on my knowledge and good practice.

1.5 In my evidence I explain the Council's case in respect of the reason for refusal in dispute and having concluded that the development does conflict with the development plan read as a whole, consider whether there are any material considerations to justify the grant of planning permission, contrary to what I consider to be the development plan-led outcome. In doing so, I am mindful of the main issues identified by the Inspector in his Case Management Conference Summary note dated 9 December 2024 and set out below:

- i. Landscape and the effect of the proposal on the character and appearance of the area, including impacts on Public Rights of Way (PRoW);
- ii. Heritage, including the effect of the proposed development on the setting and thereby the significance of designated heritage assets; and
- iii. Planning, taking into account the development plan and national policy, the benefits of the development and the planning balance.

1.6 In preparing my evidence I draw upon that of Mr Withycombe who is giving evidence on landscape and visual impact matters, Ms Dee who is giving evidence on heritage matters and Mr Rusling who is giving evidence in relation to Public Right of Way impacts. I conclude my evidence with a consideration of the benefits of the proposal and the planning balance.

2.0 Planning Policy

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”. It follows therefore that where proposals are contrary to the development plan when read as a whole, then development should be refused unless there are material considerations that indicate otherwise.

2.2 I therefore first assess the proposals against the relevant policies of the development plan. I then consider whether or not the development complies with the development plan read as a whole.

2.3 The Main Statement of Common Ground (**CD9.1**) confirms that the adopted Development Plan in respect of the Site comprises;-

- i. the Ashford Local Plan 2030 (adopted February 2019)
- ii. Aldington and Bonnington Neighbourhood Plan adopted in October 2024; and
- iii. Kent Minerals and Waste Local Plan 2013-30 adopted in September 2020.

2.4 The relevant policies from the Development Plan relating to this appeal are as follows:-

Ashford Local Plan (ALP) 2030

SP1	Strategic Objectives
SP6	Promoting High Quality Design
TRA7	The Road Network and Development
TRA8	Travel Plans, Assessment and Statements

TRA9	Planning for HGV Movements
ENV1	Biodiversity
ENV3a	Landscape Character and Design
ENV3b	Landscape Character and Design in the AONBs
ENV4	Light Pollution and Promoting Dark Skies
ENV5	Protecting Important Rural Features
ENV6	Flood Risk
ENV9	Sustainable Drainage
ENV10	Renewable and Low Carbon Energy
ENV13	Conservation and Enhancement of Heritage Assets
ENV15	Archaeology

2.5 The following are also material considerations to the determination of this appeal:

Supplementary Planning Guidance/Documents

- Landscape Character Assessment SPD 2011
- Renewable Energy Planning Guidance Note 2: The Development of Large Scale >50Kw Solar PV Arrays 2013

2.6 Aldington and Bonnington Neighbourhood Plan (ABNP) 2024

AB1	Green and Blue Infrastructure and Delivering Biodiversity Net Gain
AB2	Managing the Environmental Impact of Development
AB4	Protection of Locally Significant Views
AB8	Promoting Local Character Through High-Quality Design
AB10	Renewable and Community Energy; and
AB11	Conserving Heritage Assets

2.7 The following guidance in the National Planning Policy Framework (NPPF)

December 2024 and National Planning Practice guidance (NPPG) is also relevant:

National Planning Policy Framework (NPPF)

- 2.8 The NPPF, published in December 2024 postdates the NPS's. Whilst it contains reference to renewable energy in the context of planning for climate change it does not make any specific reference to solar farm development.

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 6 – Building a Strong, Competitive Economy

Chapter 8 – Promoting healthy and safe communities

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 - Achieving well-designed and beautiful places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

Chapter 16 – Conserving and enhancing the historic environment

Chapter 17 – Facilitating the sustainable use of minerals

Planning Practice Guidance (PPG)

- Renewable and low carbon energy

National Policy Statements (NPS)

Overarching National Policy Statement for Energy (EN-1)

National Policy Statement for Renewable Energy Infrastructure (EN-3)

- 2.9 The NPS's relate to nationally significant energy infrastructure. The threshold is 50Mw and above and the NPS contains guidance on how the Secretary of State should consider those developments. The Secretary of State has determined that substantial weight should be given to the need for NSIP development (EN-1 para 3.2.7). I accept that NPSs are a material consideration in this appeal and that when proposals are for development close to the NSIP threshold then the policies within the NPS's can be regarded as having greater weight than for smaller developments.
- 2.10 Of particular relevance to this proposal are the following:
- (a) Applicants will be expected to direct considerable effort that they have sought to minimise landscape and visual impacts in relation to context through application of the criteria for 'good design' (NPS EN-3, paras 2.10.60 & 2.10.98);
 - (b) Applicants will be expected to establish design principles from the outset to guide development from first conception onwards (NPS EN-1, para 4.7.5) and take into account topography and the ability to mitigate environmental impacts when considering design and layouts (NPS EN-3, para 2.10.60);
 - (c) Applicants will need to demonstrate in documentation how the design process was conducted and how the proposed design evolved (NPS EN-1 para 4.7.7) and should consider using design review by the Design Council (NPS EN1 para 4.7.8);
 - (d) Applicants will need to set out the reasons for selection of a favoured design choice where different design were considered (NPS EN-1 para 4.7.7);

- (e) Applicants will be encouraged to minimise visual impacts on PRoW users considering the impacts a scheme might have on the ability of users to appreciate surrounding landscapes (NPS EN-3, para 2.10.43); and
- (f) Applicants should consider and maximise opportunities to facilitate enhancements to PRoW including new opportunities for the public to access and cross solar development sites (NPS EN-3, para 2.10.44).

3.0 First Main Issue

- *Landscape and the effect of the proposal on the character and appearance of the area, including impacts on Public Rights of Way (PRoW)*

3.1 Reason for Refusal No.1 states that:

The proposed development would result in significant adverse individual and cumulative effects on landscape character and on visual amenity that cannot be appropriately mitigated. The development would also harm the amenity and experience of users of the public rights of way network and would cause less than substantial harm to the setting of designated heritage assets. The benefits of the proposed development would not outweigh these harms. The development would therefore be contrary to policies SP1, SP6, ENV1, ENV3a, ENV5, ENV10 and ENV13 of the Ashford Local Plan, policies AB4, AB10 and AB11 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework and National Policy Statements EN-1 and EN- 3.

Policy context

3.2 Policy SP1 of the ALP identifies the strategic objectives and core principles that

planning applications are expected to adhere to. Criterion (b) and (c) apply to this proposal. The relevant objectives are *“To conserve and enhance the Borough’s natural environment including designated and undesignated landscapes and biodiversity and promote a connected green infrastructure network that plays a role in managing flood risk, delivers net gains in biodiversity and improves access to nature”* and *“To conserve and enhance designated and non-designated heritage assets and the relationship between them and their settings in a way that promotes distinctive places, proportionate to their significance. Place-based heritage will be a key principle underpinning design and spatial form of development”*.

- 3.3 Policy SP6 of the ALP requires development proposals to be of high quality design and to demonstrate a careful consideration of and a positive response to design criteria, including at criterion (a) *“character, distinctiveness and sense of place”*.
- 3.4 Policy ENV3a of the ALP requires all development proposals to demonstrate particular proportionate regard to landscape characteristics, including criterion (a) *“landform and topography”* and (h) *“and relevant guidance given in the Landscape Character SPD”*.
- 3.5 Policy ENV3b of the ALP is relevant to proposals affecting the setting of AONBs. Policy ENV5 requires all new developments in rural areas to protect and where possible enhance: ancient woodland and semi-natural woodland, river corridors and tributaries; Public Rights of Way and other local historic or landscape features that help to distinguish the character of the local area.
- 3.6 Policy ENV10 of the ALP states that in order to be acceptable, proposals should not result in significant adverse impacts on the landscape, natural assets or historic assets, having special regard to nationally recognised designations and

their setting, such as AONBs.

- 3.7 Policy ENV13 of the ALP relates to the conservation and enhancement of heritage assets. Of particular relevance to the appeal is the confirmation that *“where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, or where a non-designated heritage asset is likely to be impacted, harm will be weighed against the public benefits of the proposal, including securing the optimum viable use of the heritage asset.”*
- 3.8 Policy AB4 of the ABNP supports the first of six objectives of the ABNP which is to conserve the rural landscape, character and views. It is in two parts. Part A acknowledges the contribution of the setting of settlements within the neighbourhood area to local character and identifies long distance views from the ridgeline and the main approaches to the villages as playing key roles in their settings. The policy states that proposals with significant harmful impacts on the setting of the neighbourhood area will not be supported.
- 3.9 Part B of Policy AB4 refers to designated locally significant views and requires development proposals within the arcs of such views to be designed in a way that takes into consideration the importance of the view in the layout, design or masterplanning and mitigates any adverse impact on those views.
- 3.10 Policy AB10 of the ABNP relates to commercial solar photovoltaic development and cross references to the requirements of Policy ENV10 of the ALP. It also states that these types of developments will only be supported where it meets six further requirements. Criterion (i) requires applicants to demonstrate that any harm to the local landscape and environment will be minimised and, where necessary, mitigated. It states that LVIA's should be informed by ABC's relevant SPDs. Criterion (iii) requires existing rights of way to be retained and opportunities for

enhancement sought. Criterion (v) requires the benefits of renewable energy to be proven to outweigh the landscape and environmental impacts.

- 3.11 Policy AB11 of the ABNP relates to designated and undesignated heritage assets. Part B states that development proposals affecting designated heritage assets should preserve or enhance the significance of the asset, including those elements of the setting that do not contribute to the significance. Proposals affecting non-designated heritage assets will be assessed having regard to the scale of any harm or loss against the significance of the heritage asset.

Assessment

- 3.12 The appeal site and the surrounding area are described in the Officer report **(CD1.19)** and Main Statement of Common Ground (SoCG) **(CD9.1)**. Both the Council and the Appellant agree in the Main SoCG that *“the local area is predominantly rural in nature and undulating in character”*. I consider the undulating landform and topography of the site and surroundings help to distinguish the character of the local area and this is reflected in the Landscape Character SPD **(CD3.6)**.
- 3.13 The southern and eastern parcels of the site lie within the East Stour Valley Local Character Area (LCA). The key characteristics include the ‘well vegetated East Stour River cuts through the valley with land rising to Bested Hill in the north’, ‘mosaic like pastoral field pattern’ and ‘mixed and broadleaf woodland blocks’. It is identified as in moderate condition and of high sensitivity. The overall guidelines for the area are to conserve and restore the landscape. I note Mr Withycombe’s conclusion in his Proof of Evidence that these land parcels are strongly representative of the key characteristics of the East Stour Valley LCA.
- 3.14 The northern parcel lies within the Evegate Mixed Farmlands LCA. The key

characteristics include ‘undulating topography’, ‘intensively farmed landscape with small pockets of pasture’, ‘comprehensive network of tree cover’ and ‘fragmentation caused by major infrastructure routes’ and ‘large electricity substation’. Whilst it is identified as in overall poor condition and with low sensitivity I note Mr Withycombe’s conclusion in his Proof of Evidence that it retains a strong rural character typical of the LCA. The overall guidelines for the area are to improve the landscape, including by avoiding development on higher, most visible ground.

- 3.15 The importance of local topography in assessing whether large scale solar farms could have a damaging effect on the landscape, is specifically addressed in the PPG on Renewable and low carbon energy which recognises that “*The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes*” (Paragraph: 013 Reference ID: 5- 013-20150327). That is clearly the case for this development.
- 3.16 The PPG provides an additional layer of detail to that provided in the NPPF which, in respect of applications for renewable energy, states that applications should be approved “*if its impacts are (or can be made) acceptable*”. The introduction of large-scale energy infrastructure, comprising regimented rows of solar panels and ancillary equipment would have an artificial and urbanizing impact that would change the rural character of the traditional agricultural scene. This change would represent a negative impact that would be harmful and exacerbated by the nature of the undulating landscape, including the prominent and rising nature of Bested Hill which is widely visible in clear and open views.
- 3.17 Mr Withycombe identifies in his Proof of Evidence that the development would result in substantial change to the landscape character of large areas of two LCAs.

As established in the Main SoCG this change would equate to significant adverse effects on the landscape. I also agree with Mr Withycombe's evidence that the cumulative localized landscape effects would be significant in relation to the Evegate Mixed Farmlands LCA and the Aldington Ridge. The proposal is in direct conflict with Policy ENV10 of the ALP which states that in order to be acceptable, proposals should not result in significant adverse impacts on the landscape.

- 3.18 The landscape effects of the development would be harmful and would neither conserve or enhance the undesignated landscape of the site or its surroundings contrary to strategic Policy SP1 of the ALP.
- 3.19 Whilst I acknowledge that there is little flexibility in solar panel design, no part of the development, including any of the ancillary equipment, has been designed to provide a considered or positive response, for example in terms of its siting, scale, layout or materials to the character, distinctiveness or sense of place in this location. In my view the application of Policy SP6 of the ALP should extend to the whole development, but particularly to those parts visible by sensitive receptors, including for example the inverter/substation units and substation container located in close proximity to PRow AE459.
- 3.20 I concur with Mr Withycombe's evidence with regards to the apparent failure to consider or take steps to address the landscape and visual effects in the design process. I consider the proposal would also be contrary to Policy SP6 of the ALP and guidance in the NPPG which acknowledges that "*the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.*"
- 3.21 Although it is agreed there would be no physical effect on landscape fabric, the proposed siting of development on all sides of Bested Hill cannot be argued to

have proportionate regard to the local landscape characteristics of landform and topography as required by Policy ENV3a of the ALP. Furthermore, it not only fails to have regard to but disregards the guidance in the Landscape Character SPD to improve the landscape, including by avoiding development on higher, most visible ground.

- 3.22 The Appellant's Statement of Case (**CD8.1**) acknowledges that the distinctive outline of Bested Hill could be considered a landscape feature of the site and would be masked for the duration of the development. Although temporary, I consider that the 40-year duration of the development is a significant period of time. To demonstrate proportionate regard consideration should have been given to the removal of the poorly sited areas of the appeal proposal, including those on Bested Hill. This would have been consistent with the requirements embedded in paragraph 5.10.19 of EN-1 for applicants to consider landscape and visual matters in the early stages of siting and design, where site choices and design principles are being established. I refer to Mr Withycombe's evidence in this regard. In summary the development would in parts alter existing field patterns and is neither well-planned or well-screened. The proposal is therefore contrary to Policy ENV3a of the ALP.
- 3.23 Bested Hill forms part of a locally significant view identified by the local community in the ABNP (further discussed below). In my view Bested Hill can be regarded as a local landscape feature that helps to distinguish the character of the area. The failure to protect and where possible enhance the landform of the site, including Bested Hill is therefore also contrary to Policy ENV5 of the ALP.
- 3.24 The NPPG refers to particular factors a local planning authority will need to consider, including *"the proposal's visual impact"* and *"the potential to mitigate*

landscape and visual impacts through, for example, screening with native hedges". Paragraph 5.10.5 of EN-1 is also relevant insofar as it acknowledges mitigation may also give rise to beneficial landscape character impacts. I refer to Mr Withycombe's evidence that the proposed mitigation is inappropriate, both in terms of providing effective screening and in terms of failing to create opportunities to provide wider benefits to landscape character and visual amenity. Having regard to Mr Withycombe's reference to the soft landscaping implemented as part of the adjacent solar farm development I consider the actual height and density of woodland and hedgerow planting shown in the visualisations may overplay the anticipated screening effect by suggesting a greater level of maturity and that the planting mitigation will not fully mitigate effects across the year and within these timescales as concluded in the LVIA.

- 3.25 As evidenced by the LVIA, the appeal site is visible from the Aldington ridgeline and is visible in long distance northerly views towards the Kent Downs National Landscape. The appeal site therefore contributes to the setting of Aldington village.
- 3.26 In my view the designation of locally significant viewpoints from the ridgeline is reflective of the importance of this view to the setting of the village. The appeal site would be visible from viewpoints 2a and 2b and 3. Table 4 of the ABNP identifies View 2a and 2b as 'From Goldwell Lane towards St Martin's Church along PROW AE474 and the reverse' and View 3 as 'From PROW AE475 northwards towards Kent Downs National Landscape'.
- 3.27 I note that the appeal site lies outside of the shaded arcs of View 2. A small part of the appeal site lies within the shaded arc of View 3. Notwithstanding this, Appendix B of the ABNP confirms that the location and the direction of the view, and the fan

shape indicating the lateral extent of the view are only indicative and should be considered in conjunction with the detailed descriptions in Appendix B.

- 3.28 The description of View 2 in Appendix B of the ABNP states that walkers on PROW AE474 from either direction can enjoy views towards St Martin's Church and towards Aldington as they gradually change, along the path. The detailed description of the view references *"a panoramic view across open fields takes in Aldington to the west and benefits from the landscape rising in the far distance to extend across to Mersham in the north-west and include the Kent Downs National Landscape on the northern horizon (View 2b)".*
- 3.29 The description of View 3 states: *"PROW AE475 also crosses between Goldwell Lane and Church Lane, but to the north of AE474. This means that, at the higher part of the route, approximately 300m north-west of Church Lane, it provides a more open view northwards across the fields of the East Stour Valley towards the Kent Downs National Landscape. Bested Hill and Hungry Down are seen at close distance, to the north and north-east, with the location of the traditional annual Point-to-Point event lying between them."*
- 3.30 The LVIA identifies individual and cumulative adverse visual effects from this locally significant viewpoint and I note that the assessment of this and other views is based upon visualisations of an indicative layout and in summer time. It does not therefore represent a worst-case scenario.
- 3.31 I conclude that the development would detract from and be harmful to the setting of the village, including in views out from the ridgeline across farmland towards the National Landscape. In coming to this conclusion I have also given weight to the submissions of the Kent Downs National Landscape Unit (**CD2.1.15** and **CD2.2.11**). In their consultation response they stated: *"The photomontage*

prepared from PROW AE496 demonstrates however that there would be more of an impact from this direction, partly as a result of the closer proximity and partly due to the fact the array would be facing the receptor. While mitigation planting would help reduce impacts by Year 10, by effectively screening the array on the east side of Church Lane, the array on the west side of Church Lane, on Bested Hill, would remain apparent in views, due to the higher topography of this part of the site. We consider the magnitude of impact to be underassessed from this viewpoint in the LVIA Update.”

3.32 I consider the development is contrary to the first part of Policy AB4 of the ABNP and that the adverse impacts and associated harm would not be suitably mitigated contrary to Part B of that policy. More widely, the applicant has not demonstrated that any harm to the local landscape and environment will be minimised and, where necessary, mitigated. I consider those parts of the appeal proposal that lie within the Neighbourhood Plan area are contrary to Policy AB10 of the ABNP. In addition, the likely degree of ‘overplanting’ is unknown (including what purpose or purposes it would serve and whether this is a legitimate justification for ‘overplanting’) and it is therefore difficult to assess whether the final scheme will be planned sensitively, given that all the visualisations are currently indicative only. I consider the Inspector must assume a worst-case scenario in relation to all effects and also consider whether harms could be reduced / mitigated with control over the degree of ‘overplanting’ whilst still producing an acceptable energy output.

- PROW

3.33 Paragraph 8 of the Officer report describes the PROW network on and adjacent to the appeal site. Both Mr Withycombe and Mr Rusling consider the impacts of the appeal proposal on the PROW network, including through loss of amenity and

enjoyment of users related to the impact of the development on the landscape and rural character. I refer to their Proof of Evidence on this matter.

- 3.34 The value of the PRow network is in providing the means for residents and visitors to access and appreciate landscapes for personal health and wellbeing, enhancing community connectivity and cohesion and reducing local traffic congestion. In my view the topography of the site and surroundings adds significantly to the experiential qualities enjoyed by PRow users because of the wide range of landscape views that are afforded to them and which alter according to user location and viewing position when travelling along a route. As recognised in paragraph of 5.11.30 of EN-1, I consider the PRow network is an important recreational facility and that the site and surroundings have a high recreational value. This is reflected by the number and content of objections received to the planning application indicating it is valued by residents in particular (**CD2.1** and **CD2.1.1**). This recreational value will be significantly affected by the appeal proposal. In my view the severity of the impact would be exacerbated by the inadequate mitigation and length of time the development would be in place.
- 3.35 I note Mr Withycombe's evidence relating to the lack of representative views and identification of visual receptors in particular from PRow. I agree with Mr Withycombe's evidence in relation to the likely significant effects from the 6 additional viewpoints assessed by him and where no mitigation is proposed. I too consider that the significance of effect of the development on the amenity value of the PRow network is underestimated, the mitigation proposed is insufficient and no enhancements to the PRow are proposed.
- 3.36 Notwithstanding the mitigation measures proposed to limit views of the solar arrays, I have identified that the development would be harmful to the rural

character of the site and detract from the recreational value and experience of users of the PRoW network that passes through it and offers views across it contrary to Policy ENV5 of the ALP which requires all new developments in rural areas to protect and where possible enhance features including Public Rights of Way. The Appellant's Statement of Case (**CD8.1**) refers to alternative permissive routes which could be taken if walkers preferred not to walk through the site; however I concur with the evidence of Mr Rusling that these paths which would follow the perimeter of the solar arrays would not provide suitable mitigation.

3.37 NPS EN-3 states that applicants are encouraged where possible to minimise the visual impacts of the development for those using existing public rights of way, and to consider and maximise opportunities to facilitate enhancements to the public rights of way.

3.38 I do not consider that visual impacts have been minimised.

4.0 Second Main Issue

- *Heritage, including the effect of the proposed development on the setting and thereby the significance of designated heritage assets*

4.1 Ms Dee considers the heritage impact of the appeal proposal and I refer to her conclusions in relation to the individual and cumulative effect of the proposed development upon heritage assets in her Proof of Evidence.

4.2 I do not seek to duplicate Ms Dee's analysis of the heritage impacts but I have taken account of Ms Dee's conclusions on the degrees of less than substantial harm afforded to the effect of the development on the significance of those heritage assets. I note the appeal proposal would bring about a noticeable change

to the rural character of the site by introducing large-scale development where there currently is none thereby eroding the wider open agricultural landscape and failing to preserve the setting of heritage assets. The degree of harm identified by Ms Dee would adversely impact upon the significance of the setting of the identified Assets.

4.3 I consider that the harm conflicts with strategic Policy SP1 and Policies ENV10 and ENV13 of the ALP and Policies AB4, AB10 and AB11 of the ABNP.

4.4 In accordance with paragraph 208 of the NPPF I have therefore considered whether public benefits outweigh the heritage harm. Significant weight is afforded to the benefit of renewable energy generation; however I find it is insufficient to outweigh the great weight which the NPPF advises must be afforded to the harm identified to each of the designated heritage assets (para 212), both individually and cumulatively. The appeal development therefore fails to achieve the NPPF's test at paragraph 208 and is therefore unacceptable. This is the Council's first position. However, even if the Inspector were to find paragraph 208 of the NPPF was passed, the heritage harm must still be weighed in the overall balance. I therefore weigh these harms, and consider whether public benefits outweigh the harm in my overall planning balance later in my evidence.

5.0 Third Main Issue

- *Planning, taking into account the development plan and national policy, the benefits of the development and the planning balance.*

5.1 In accordance with paragraph 12 of the NPPF, the statutory status of the development plan is the starting point for decision-taking. Paragraph 12 advises

that “*where a planning application conflicts with an up-to-date development plan permission should not usually be granted*”. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “*where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise*”.

- 5.2 For the reasons set out in this Proof of Evidence I have found the appeal scheme is contrary to relevant policies in the adopted development plan and the development plan read as a whole. The policies of the development plan, including those contained in the decision notice, are consistent with the NPPF and up to date and I attach them full weight. The reasons for refusal are further supported by National Policy Statements and guidance in the form of the NPPF and NPPG. Conflict with the development plan means that, unless material considerations indicate otherwise, planning permission should be refused.
- 5.3 The Appellant’s Statement of Case (**CD8.1**) refers to a number of wider environmental, social and economic benefits from the appeal proposal which are capable of constituting material considerations.
- 5.4 The Appellant cites the presumption in favour of sustainable development enshrined in paragraph 11 of the NPPF as a benefit of the development. As I have concluded the development does not comply with the up-to-date development plan, it follows that it is not sustainable development and therefore the presumption in favour cannot apply. However, even if the Inspector were to find that the presumption in favour of development applies, whilst I agree it is a material consideration, it would not be a benefit of this development as all proposals should comprise sustainable development.

- 5.5 The Appellant cites socio-economic benefits to local and national UK based contractors. I do not dispute these are material considerations; however I consider they attract moderate weight in the planning balance for the following reasons.
- 5.6 As with virtually all development proposals, the appeal proposal would result in some economic benefits in the form of job opportunities and this is a material consideration. As noted by the Appellant these benefits are not quantified. I note they would be limited to temporary time periods of construction (anticipated up to 9 months) and decommissioning and I afford economic benefits limited weight in the planning balance.
- 5.7 The Appellant refers to the delivery of a range of biodiversity benefits, including a 116.84% net gain on habitats and a 230.36% net gain on hedgerows. I accept that this is a material consideration that represents a benefit to be given significant weight. However I note that the provision of biodiversity net gain on this site also represents mitigation that seeks to address harm and to make the appeal proposal more acceptable. This necessarily moderates the weight that can be afforded to it since it is not a freestanding benefit and is only necessary as a consequence of the harm being caused.
- 5.8 The Appellant also refers to the existence of a secured grid connection to the nearby Sellindge Converter Station for 2028. The Officer report (**CD1.19**) acknowledged that the existence of grid capacity indicates that the development is deliverable and this is a material consideration weighing in favour of the appeal proposal. I agree that the ability to feed electricity directly to the National Grid via a secured connection and within an agreed timescale provides a degree of certainty that the development can be implemented and feed electricity into the National Grid at an earlier stage than in circumstances where no agreement has been

achieved. Notwithstanding this is capable of being a benefit of the development, no evidence of the grid connection has been provided, despite the Council specifically requesting it in its Statement of Case (**CD8.2**). The failure to evidence the grid connection, even in a redacted form, must temper the weight to be afforded to the alleged benefit since it is impossible to know that there is indeed a connection or, if there is, what its terms and timescale are. The absence of such means that it should be afforded neutral weight in my view, unless and until the Appellant provides more than an assertion of its existence.

- 5.9 In the event that evidence of grid connection is provided, I note the Appellant's view that this should be given significant weight in the planning balance. I consider that, on the basis all National Grid capacity should be exploited, this benefit should be not be given any more than moderate weight.
- 5.10 The Appellant has referred to a number of appeal decisions relating to solar farm developments in their Statement of Case (**CD8.1**). It is well established that each appeal should be determined on its own merits and what is said in other appeal decisions will not always be directly applicable to other schemes.
- 5.11 The Council is not opposed to solar farms as is demonstrated by Policy ENV10 of the ALP and Policy AB10 of the ABNP. The Officer report (**CD1.19**) confirms that the Council raises no objection to the appeal proposal as a matter of fundamental principle and it has not raised an in-principle objection to the nearby, larger solar farm (99.9MW) at Stonestreet Green.
- 5.12 I therefore consider that whilst appeal decisions can provide some indications of how planning policy may be applied in particular circumstances, there are invariably other decisions that can show the reverse. This is not a case where there is a point of principle where a consistent approach is required with other

Inspector's decisions in order for a lawful decision to be reached. I do not consider therefore that the appeal decisions that have been cited constitute material considerations in determining the current appeal, which has to be decided on its own merits with the use of judgement in weighing up the various harms and benefits and concluding on the planning balance.

5.13 In conducting the planning balance I have adopted the following weighting descriptions as follows in order of significance:

- Great
- Significant
- Moderate
- Limited
- Neutral

5.14 I have considered the Appellant's list of benefits of the appeal scheme above. I accept that there is no requirement for applicants to demonstrate the overall need for renewable or low carbon energy (NPPF para 168). That need is fully accepted at the national level.

5.15 At the local level the Council accepts the urgency, challenge and responsibility to act in order to play its part in tackling climate change and has set targets to have net zero carbon emissions in its own estate and services by 2030 and borough wide by 2050, thereby supporting the national agenda. The Borough Plan (**CD3.10**) is instrumental in this and sets out the Council's vision and priorities under the pillars of Planet, People and Place. It includes a commitment to reducing the use of fossil fuels, including by supporting the development of community energy projects as a key route to delivering carbon reductions where solar and wind

development led by and directly benefitting communities are encouraged. Whilst I acknowledge solar farms of the scale proposed would contribute to national and local net zero targets, this does not mean any site at any cost is required and it is regrettable that the appeal proposal does not comprise a community energy project and the renewable energy generated would not result in direct benefits for affected communities in the same way that a single or multiple smaller scale community energy projects would achieve with additional direct co-benefits including for cost of living for residents and the wider Ashford green economy and skills.

- 5.16 The Officer report (**CD1.19**) states that this proposal is anticipated to generate up to 49.9 MW and as stated in the SEI is estimated to provide sufficient electricity to power approximately 17,000 homes annually. The report concludes that this is a clear public benefit of the development and it must be afforded substantial weight. The proposal is not the scale of a NSIP but is very close and will contribute to the Government's target to support the transition to net zero by 2050. In accordance with the requirements of the NPPF significant weight must be given to the benefits associated with renewable energy generation.
- 5.17 I have accepted that the existence of a grid connection is capable of being a benefit, but in the absence of evidence of such a connection I have attributed it neutral weight. In the event that evidence is provided I attribute moderate weight to it.
- 5.18 I accept that subject to appropriate planning conditions, the development will provide for significant biodiversity enhancement through the improvement of habitats and planting of hedgerows. The weight I afford to this is tempered by the requirements to mitigate the harms of the proposal which in my view should not

attract freestanding weight as a benefit and I therefore lend this moderate weight in the planning balance.

5.19 I attach limited weight to the socio-economic and economic benefits of the appeal proposal.

5.20 Weighing against these benefits I have identified that the appeal proposal would result in various harms. Mr Withycombe has assessed the proposals in respect of their impact on landscape character and visual amenity and concludes there would be significant adverse effects. Mr Rusling has assessed the proposals and identified significant adverse effects for users of public rights of way. I attach significant weight to these harms.

5.21 I also take into account the harm to heritage significance as set out in Ms Dee's evidence. I have to give great weight to that harm in the overall planning balance as required by the NPPF.

5.22 In conclusion, and in the context of Section 38(6) of the 2004 Act, I consider that the proposed development would not be in accordance with the development plan, for the reasons set out in this Proof of Evidence. Even when weighing all the benefits of the appeal proposal against the cumulative harm identified I conclude that there are no other material considerations that would outweigh this conflict and the resultant harm that would be caused by the appeal proposal. As such, I consider that this appeal should be dismissed and planning permission refused.

6.0 PLANNING CONDITIONS

6.1 Should the Inspector be minded to grant planning permission, the Council respectfully requests that this should be subject to planning conditions. A

schedule of draft planning conditions are the subject of discussion with a view to agreement between the parties. I accept that they will ensure the mitigation proposed will be put in place, but for the reasons identified I do not consider that they will make the appeal proposal acceptable and will not overcome the harm to landscape and visual impact, nor will they overcome the harm to heritage assets or to users of the public right of way network.

7.0 SUMMARY

- 7.1 My evidence addresses the Council's Reason for Refusal 1 which, in summary, concerns whether the benefits of the proposed development would outweigh the harms in respect of landscape character and visual amenity, the amenity and experience of users of the public rights of way network and harm to the setting of heritage assets.
- 7.2 I have taken account of Mr Withycombe's evidence in respect of the proposed development's significant adverse effects on landscape character and visual amenity, Mr Rusling's evidence in respect of the impacts on users of public rights of way and Ms Dee's evidence in respect of the impacts on the setting of heritage assets. I attach significant weight to the harms to landscape character and visual amenity and great weight to harms to heritage.
- 7.3 For the reasons set out in full in my Proof of Evidence, the proposed development is contrary to policies SP1, SP6, ENV1, ENV3a, ENV5, ENV10 and ENV13 of the Ashford Local Plan, policies AB4, AB10 and AB11 of the Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework and National Policy Statements EN-1 and EN-3.

- 7.4 I have considered the benefits of the proposed development and have set out where I do not agree with the weight attributed to them by the Appellant. Specifically and in the absence of any evidence, I do not agree with the weight afforded to the existence of a future grid connection. I also do not agree with the weight afforded to the biodiversity enhancements or socio-economic benefits.
- 7.5 I accept that the renewable energy generation from the proposed development would be of significant benefit; however, when weighing up the planning balance, I consider that the benefits identified would not be outweighed by the cumulative harm that would result from the development.
- 7.6 For the reasons set out in my Proof of Evidence, I consider that the proposed development would not be in accordance with the development plan, and that there are no other material considerations that would outweigh this conflict and the resultant harm that would be caused. As such, I consider that the appeal should be dismissed and planning permission refused.