

Town and Country Planning Act 1990

**Appeal by EDF Energy Renewables Limited (trading as EDF Renewables)
Land south of the M20, Church Lane, Aldington, Kent (known as East Stour Solar Farm)**

Ashford Borough Council Reference: 22/00668/AS

Statement of Case on behalf of the Appellant

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1. Introduction

- 1.1 This Statement of Case has been collated by Eversheds Sutherland (International) LLP, Solicitors of Bridgewater Place, Water Lane, Leeds, LS11 5DR on behalf of EDF Energy Renewables Limited (trading as EDF Renewables) (the “**Appellant**”) in relation to an application for the 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 (the “**Proposed Development**”). The Proposed Development is to be known as East Stour Solar Farm.
- 1.2 The site of the Proposed Development is at land south of the M20, to the west of Sellindge and northeast of Aldington in Kent (the “**Site**”).

2. The Site

- 2.1 The Site is located to the west of Sellindge, in Kent. The village of Aldington is approximately 1.3km southwest of the Site, and the village of Smeeth is approximately 400m to the northwest of the Site.
- 2.2 The majority of the Site is located in Aldington Parish Council, with the northern land parcel falling under Smeeth Parish Council. The Site is entirely within the administrative boundary of Ashford Borough Council (the “**Council**”).
- 2.3 Other than the nearest settlements noted in paragraph 2.1, in the wider area around the Site there is Brabourne Lees, Lilyvale and Mersham. Dispersed dwellings and farms are situated alongside the minor roads surrounding the Site.
- 2.4 The Site is located to the west and south of Sellindge Converter Station and the operational Sellindge Solar Farm. The Site is primarily used as arable agricultural land, with fields ranging between medium and large scale, and are often bounded by established hedges.
- 2.5 The land surrounding the Site is mainly utilised for agricultural purposes and comprises mostly arable land. There are several small woodland blocks in the area, including Backhouse Wood, to the west of Bested Hill. In addition, field boundaries are generally well vegetated with established hedgerows and hedgerow trees.
- 2.6 A range of transport and energy infrastructure crosses and adjoins the Site. Church Lane runs north/south between the southern land parcel at Bested Hill and the eastern land parcel around Partridge Plantation. The HS1 and local railway lines travel east/west across the Site separating the northern development area from the rest of the Site. The M20 forms the northern boundary of the northern parcels of land.
- 2.7 The land is also crossed by overhead electricity lines on wooden poles (33kV) and pylons (400kV) connecting to the Sellindge Converter Station. A sewage works is located to the immediate east of the Converter Station.

3. The Proposed Development

- 3.1 The planning application as submitted sought planning permission from the Council for the installation and operation of a solar farm and associated infrastructure. This is to comprise of:
- 3.1.1 an array of ground-mounted solar photovoltaic panels;

- 3.1.2 panel frames at an angle of approximately 20°, with a maximum height of 3m and associated ground anchors and concrete 'feet';
- 3.1.3 upgrading and/or widening of existing access tracks, together with creation of a new access point to cross Church Lane and new access tracks;
- 3.1.4 up to 20 containerised inverter/transformer units of up to 6m long by 3m wide and 3m high;
- 3.1.5 up to three cabinets containing welfare facilities, security and solar farm control systems, and equipment for general maintenance and spare parts;
- 3.1.6 up to four substations of up to 6m long, by 3m wide and 3m high;
- 3.1.7 underground cabling between the panels and inverter/transformer units and between those units to the substations;
- 3.1.8 a security perimeter fence in stock style with wooden posts and open wire mesh of up to 2.15m tall, together with creation of new gates and erection of CCTV cameras; and
- 3.1.9 up to three temporary construction compounds and temporary lighting.

4. Procedural Background

- 4.1 A screening opinion was adopted by the Council on 31 August 2021, which confirmed the Council's position that the Proposed Development constituted Environmental Impact Assessment ("EIA") development (**APP1.1**). Thereafter the Appellant submitted a request to the Council for a Scoping Opinion, by way of a Scoping Report dated October 2021 (**APP1.2**). The Council did not adopt any Scoping Opinion in response to this request and therefore the Environmental Statement prepared in support of the planning application was done so in the absence of the Council's position in this regard.
- 4.2 The Appellant submitted the planning application on 26 April 2022. The planning application comprised:
 - List of Submission Documents submitted in place of a covering submission letter (**APP1.3**);
 - Completed Application Form (**APP1.4**);
 - Application Drawings (**APP1.5**) (see **Appendix 1** of this Statement of Case for a full schedule of the application drawings);
 - Design and Access Statement dated April 2022 (**APP1.6**);
 - Socio Economic and Sustainability Statement dated April 2022 (**APP1.7**); and
 - Environmental Statement ("**ES**") dated April 2022, comprising:
 - Volume 1: Non-Technical Summary (**APP1.8.1**);
 - Volume 2a: Written Statement (**APP1.8.2**);
 - Volume 2b: Technical Appendices (**APP1.8.3**);
 - Volume 3: Figures (**APP1.8.4**);
 - Volume 4: Visualisations (**APP1.8.5**); and
 - Confidential Appendix 10.1a in respect of badgers (**APP1.8.6**).

- 4.3 The Council wrote to the Appellant on 10 May 2022 advising that the planning application was invalid due to issues with the Site location and layout plans. Requests were made for different scales to be used. The Appellant duly provided revised versions of the Site location plans (comprised of Figure 1.1 and Figure 1.1a) (**APP1.10.1 and APP1.10.2**) and Site layout plans (comprised of Figure 1.2 and Figure 1.2a which comprised of four sheets) (**APP1.10.3 and APP1.10.4**) on 7 June 2022. The Council advised on 8 June 2022 that the new Site layout plans required a key identifying how the plans were to be read together. The Appellant submitted new Site layout plans (**APP1.11**) on 27 June 2022.
- 4.4 Thereafter, the application was formally validated on 29 July 2022 and was allocated reference 22/00668/AS.
- 4.5 The Appellant submitted a number of additional and/or updated documents post submission of, but prior to determination of, the application to address consultation responses, provide further assessment on the latest cumulative position and to amend the red line application boundary, on 11 January 2024 (see the submission covering letter dated 10 January 2024 at **APP1.13**). Documents were submitted as follows:
- 4.5.1 Supplementary Environmental Information ("**SEI**") dated January 2024 in response to comments received during the consultation process and direct commentary from the Council following a meeting on 16 June 2023, comprising:
- 4.5.1.1 Volume 1: Non-Technical Summary (**APP1.14.1**);
- 4.5.1.2 Volume 2a: Written Statement (**APP1.14.2**);
- 4.5.1.3 Volume 2b: Technical Appendices (**APP1.14.3**);
- 4.5.1.4 Volume 3: Figures (**APP1.14.4**); and
- 4.5.1.5 Volume 4: Visualisations (**APP1.14.5**);
- 4.5.2 Updated Design and Access Statement dated January 2024 (**APP1.15**); and
- 4.5.3 Planning Statement dated January 2024 (**APP1.16**).
- 4.6 The SEI covering submission letter (**APP1.13**) also identified a confidential ecological submission, which was being provided separately due to its sensitive nature, prepared to respond to the consultation response of Kent County Council's Ecological Advice Service. The Appellant erroneously neglected to provide this ecological submission to the Council.
- 4.7 Within Volume 3, the SEI included new Figures 1.1: Cumulative Developments, 1.2: Proposed Site Layout (North), 1.2: Proposed Site Layout (South), 1.3: Proposed Site Layout (Aerial Image) (North) and 1.3: Proposed Site Layout (Aerial Image) (South) (**APP1.14.4**), which included amendments to the red line application boundary to revise the area contained therein so as to exclude areas of land not required for the Proposed Development.
- 4.8 Further documents were submitted by the Appellant post submission of the SEI, but prior to determination of, the application to address commentary from the Council and third party responses, on 16 April 2024 (as detailed in paragraph 4.9 below). It should be noted, however, that the consultation responses of numerous consultees, including the Environment Agency, Historic England, Kent County Council and Natural England, submitted in response to the SEI of January 2024 were never provided to the Appellant. Most have

subsequently been made available on the Council's planning portal (though not all¹) but they were not all made available as at the date of the consultation responses themselves.

- 4.9 The covering submission letter dated 14 April 2024 confirmed the reasons for submitting the new material (**APP1.18**). Documents were submitted as follows:
- 4.9.1 Replacement ES Volume 4 Visualisations comprising of:
- 4.9.1.1 Viewpoint 5 Revision A (**APP1.18.1**); and
- 4.9.1.2 Viewpoint 7 Revision A (**APP1.18.2**);
- 4.9.2 Replacement SEI Figures comprising of:
- 4.9.2.1 Figure 11.11 Revision A – Viewpoint 6 (Layout Refinement) [Year 10 post construction] (**APP1.18.3**);
- 4.9.2.2 Figure 11.12 Revision A – Viewpoint 7 (Layout Refinement) [Year 10 post construction] (**APP1.18.4**); and
- 4.9.2.3 Figure 11.13 – Viewpoint 8 (Layout Refinement) [at completion] (**APP1.18.5**); and
- 4.9.3 Update to ES Appendix 11.2 LVIA Methodology and Viewpoint Analysis in respect of Viewpoint 7 (see Appendix A of the covering submission letter (**APP1.18**)).
- 4.10 Whilst not referenced in the covering submission letter, the e-mail submission identified that a confidential badger submission was to be provided separately due to its sensitive nature. Such material had been prepared to respond to comments raised by Kent County Council's Ecological Advisory Service in respect of Badger and Breeding Birds, as well as to respond to a video received from a member of the public in relation to Brown Hare. The Appellant erroneously neglected to provide this ecological submission to the Council.
- 4.11 The Planning Officer produced a report confirming that they intended to refuse the planning application (**APP1.19**). This position was formalised by the Council in its decision notice of 29 April 2024 (**APP1.20**).
- 4.12 The decision notice cites five Reasons for Refusal, as follows:
- "1. 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.*
- 2. By reason of the insufficient information provided regarding the potential impacts of the development on the significance of heritage assets with archaeological*

¹ The Officer's Report refers to a consultation response from Aldington and Bonnington Parish Council in February 2024, which has not been sent to the Appellant and is not available via the Council's planning portal. This response has therefore never been seen by the Appellant.

interest, the development would be contrary to policy ENV15 of the Ashford Local Plan 2030, policy AB11 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework.

3. By reason of the insufficient information provided regarding the management of construction vehicles during the construction phase of the development, the applicant has failed to demonstrate that the proposed development would have an acceptable impact on highway safety, and that the residual cumulative impacts on the road network would not be severe. The development would therefore be contrary to policies TRA7, TRA8 and ENV10 of the Ashford Local Plan 2030, policy AB10 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework.

4. By reason of the insufficient information provided regarding the mitigation and enhancement measures for badgers, breeding birds and brown hare, the applicant has failed to demonstrate that the proposed development would have an acceptable impact on protected species. The development would therefore be contrary to policies ENV1 and ENV10 of the Ashford Local Plan 2030, policy AB10 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework.

5. By reason of the absence of a Minerals Assessment, the applicant has failed to demonstrate that the safeguarded mineral deposit on the site is not being needlessly sterilised. The development would therefore be contrary to policy DM7 of the Kent Minerals and Waste Local Plan (2013 to 2030) as amended by the Early Partial Review (adopted 2020)."

- 4.13 This is an appeal made by the Appellant pursuant to Section 78(1) of the Town and Country Planning Act 1990 against the decision of the Council to refuse the application for planning permission for the Proposed Development.

5. Determination Method

- 5.1 It is the Appellant's considered view that this matter should be determined by way of hearing, having regard to the Planning Inspectorate's 'Criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeals' of April 2022.
- 5.2 For the reasons set out in full in the following sections of this Statement of Case, the Appellant does not consider that the Council's case for refusing planning permission for the Proposed Development is sufficiently clear within the Reasons for Refusal. The determination of this appeal will therefore require the testing of evidence by questioning so as to fully clarify the Council's case and such is considered to be capable without the need for advocate representation. In this regard, the Appellant considers that a Statement of Common Ground will also be an important tool as part of this appeal.
- 5.3 Whilst there are a number of technical matters which the Appellant considers require testing, the Appellant does not consider that such is required through formal questioning by an advocate.
- 5.4 The Proposed Development generated a level of local interest which the Appellant considers warrants a hearing, though such is not so significant as to require a public inquiry.
- 5.5 The Appellant reserves the right to amend or supplement this Statement of Case in the light of the position adopted by the Council or interested parties (whether Rule 6 parties or otherwise).

6. Expert Consultants

- 6.1 As has been set out in section 5 above, the Appellant seeks determination of this appeal by way of hearing. In this section, we confirm which expert consultants have been authors of this Statement of Case and would subsequently be called as witnesses to any hearing sessions fixed. The expert consultants include:
- 6.1.1 Kay Hawkins (BSc (Hons), BLD, Dip PA, CMLI) of Hawkins Bell Associates Ltd (trading as HBA Environment) in respect of landscape and visual matters;
 - 6.1.2 Rob Bourn, Managing Director of Orion Heritage Limited in respect of archaeological and heritage matters. Orion Heritage is an independent heritage consultancy based in Brighton and Manchester and is a Chartered Institute for Archaeologists ("CIfA") Registered Organisation ("RO"). Rob holds a BA (Hons) in Archaeology & Prehistory (Sheffield University), an MA in Environmental Planning (Nottingham University) and postgraduate diploma in archaeological practices (Oxford University). He is a Member of the CIfA and has 34 years' experience as a professional archaeologist and heritage consultant, 28 of which have been in a planning and development context acting for both the public and private sectors. During this period, Rob has personally dealt with major developments affecting the historic environment and setting issues throughout the UK, including appearing as an historic environment expert witness for a number of renewable energy related public inquiries.
 - 6.1.3 Mark Gash (BSc MCIEEM), Director of Turnstone Ecology Limited, in respect of ecological and ornithological matters; and
 - 6.1.4 Steven Longstaff (BA(Hons), MSc, MRTPI), Director of ELG Planning in respect of planning policy matters.
- 6.2 Details as to each of these expert consultants' qualifications and experience has been provided at **Appendix 2** of this Statement of Case.

7. Planning Policy Framework

- 7.1 For current purposes and, in particular Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the "**2004 Act**"), the adopted Development Plan comprises the Ashford Borough Local Plan adopted in February 2019 (**APP3.1**) and the Kent Minerals and Waste Local Plan 2013-30 adopted in September 2020 (**APP3.2**).

Ashford Borough Local Plan (February 2019)

- 7.2 The most relevant policies in this Local Plan for the consideration of the Proposed Development are considered to be as follows:
- Policy SP1: Strategic Objectives;
 - Policy SP6: Promoting High Quality Design;
 - Policy TRA7: The Road Network and Development;
 - Policy TRA8: Travel Plans, Assessment and Statements;
 - Policy ENV1: Biodiversity;
 - Policy ENV3a: Landscape Character and Design;

- Policy ENV5: Protecting Important Rural Features;
- Policy ENV6: Flood Risk;
- Policy ENV9: Sustainable Drainage;
- Policy ENV10: Renewable Energy;
- Policy ENV13: Conservation and Enhancement of Heritage Assets;
- Policy ENV14: Conservation Areas; and
- Policy ENV15: Archaeology.

Kent Minerals and Waste Local Plan 2013-30 (September 2020)

7.3 The most relevant policies in this Local Plan for the consideration of the Proposed Development are considered to be as follows:

- Policy DM 7: Safeguarding Mineral Resources.

Policy Assessment

7.4 A detailed assessment of the Proposed Development against the development plan policies has been provided at **Appendix 3** of this Statement of Case. However, the position is summarised below.

7.5 The principal development plan policy for the consideration of the Proposed Development is Policy ENV10 (Renewable & Low Carbon Energy) which seeks to support the delivery of renewable energy in the Borough. Policy ENV10 is a criteria-based policy and advises that proposals will be supported provided that such criteria are met. Analysis in this Statement of Case at paragraphs 12.5 to 12.7 demonstrates that the proposals do not conflict with Policy ENV10 as a whole.

7.6 The accompanying Development Plan Policy Assessment demonstrates that the Proposed Development complies with the development plan as a whole.

8. Development Plan Related Material Considerations

8.1 There are a number of documents produced by the Council which are designed to sit alongside the adopted Development Plan which are relevant material considerations to the determination of this appeal. These are set out below.

Aldington and Bonnington Neighbourhood Plan

8.2 Part of the Site lies within the Aldington and Bonnington Neighbourhood Plan area. The referendum on the Aldington and Bonnington Neighbourhood Plan was held on Thursday 15 August 2024 with 90% of the vote in favour of the plan. It is understood that the Neighbourhood Plan will now progress to adoption, at which point it will form part of the development plan for Ashford. Until it is adopted it is a material consideration in the consideration of the Proposed Development.

8.3 The most relevant policies in the draft Neighbourhood Plan (**APP3.3**) are as follows:

- Policy AB1: Green and Blue Infrastructure and Delivering Biodiversity Net Gain

- Policy AB2: Managing the Environmental Impact of Development
- Policy AB4: Protection of Locally Significant Views
- Policy AB8: Promoting Local Character Through High-Quality Design
- Policy AB10: Renewable and Community Energy
- Policy AB11: Conserving Heritage Assets

Landscape Character Supplementary Planning Document

- 8.4 The Landscape Character Supplementary Planning Document (**APP3.18**) was adopted in 2011 to sit alongside the previous Ashford Core Strategy. It is intended to promote regard for the landscape and to ensure new development makes a positive contribution to the landscape, including its key characteristics and features in which it is located.

9. Other Material Considerations

- 9.1 There are a number of elements of national energy and land use planning policy and guidance which are material considerations to the determination of this appeal, as set out below.

Energy Policy & Guidance

- 9.2 There is a significant amount of guidance and policy on renewable energy both locally and nationally. The ES (**APP1.8**) and Planning Statement (**APP1.16**) submitted with the planning application outlined the position in considerable detail and it is not considered expedient to reiterate this fully here. However, a summary has been provided of the pertinent points below, together with any updates post submission of those documents.
- 9.3 In May 2021 the Council made a clear commitment to carbon net zero targets within its own estate by 2030 and to support the Government's national agenda to reach net zero carbon more widely in the Borough by 2050. In June 2022 the Council published its latest Climate Change Strategy (**APP3.6**) which includes a Climate Action Plan for meeting the 2050 target for Borough wide emissions. The Action Plan sets out 8 priorities and of particular relevance is priority 3 which is: Reduce reliance on fossil fuels for energy by increasing renewable energy generation and consumption. It then sets out the following outcomes to achieve this:
- Increase in renewable energy use across the Borough;
 - Higher standards of environmental sustainability in new developments;
 - Council drives local renewable energy generation and usage projects at all scales, supporting the community with accessibility to green energy and sharing learning; and
 - Council achieves 100% green energy use in its own operations.
- 9.4 At a national level, the following guidance is of relevance:
- Energy White Paper Powering our Net Zero Future (December 2020) (**APP3.7**);
 - HM Treasury National Infrastructure Strategy 2020 (**APP3.8**);

- British Energy Security Strategy (April 2022) (**APP3.9**); and
- Powering up Britain Policy Paper (March 2023) (**APP3.10**).

9.5 Of relevance to the new Labour Government's position on renewables is the following paragraph from the Written Ministerial Statement made by the Deputy Prime Minister on 30 July 2024 (**APP3.11**) alongside the publication of the consultation draft National Planning Policy Framework (**APP3.12**).

"Turning to green energy, boosting the delivery of renewables will be critical to meeting the Government's commitment to zero carbon electricity generation by 2030. That is why on this Government's fourth day in office we ended the ban on onshore wind, with that position formally reflected in the update to the National Planning Policy Framework published today. We must however go much further – which is why we are proposing to: boost the weight that planning policy gives to the benefits associated with renewables; bring larger scale onshore wind projects back into the Nationally Significant Infrastructure Projects regime; and change the threshold for solar development to reflect developments in solar technology."

National Planning Policy Framework: draft text for consultation (July 2024)

9.6 On 30 July 2024 the new Labour Government published consultation on the proposed reforms to the National Planning Policy Framework ("**NPPF**") and other changes to the planning system (**APP3.12**). Whilst it is acknowledged that the proposed changes to the NPPF can only be given limited weight at this time, the statement above and proposed changes to the NPPF clearly sets out the Government's direction of travel.

9.7 Of most relevance to the Proposed Development is the guidance at paragraph 164 which states:

"Local planning authorities should support planning application for all forms of renewable and low carbon development. When determining planning applications for these developments, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, **and give significant weight to the proposal's contribution to renewable energy generation and a net zero future;***
- b) recognise that even small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions;*
- c) in the case of applications for the repowering of life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site."* (emphasis added)

Renewable Energy Planning Guidance Note 2: The Development of Large Scale >50Kw Solar PV Arrays (Ashford Borough Council – 2013)

9.8 This document (**APP3.13**) was prepared by the Council in 2013 to assist all parties involved in the renewable energy development process. The status of this document is that it has been approved by the Council's Cabinet and it is intended to advise decision makers when determining applications. As the document has not been subject to detailed consultation, it can only be given limited weight in the consideration of the Proposed Development.

Kent Downs AONB Management Plan (2021 – 2026)

- 9.9 This document (**APP3.14**) has been prepared by the Joint Advisory Committee (“**JAC**”) for the Kent Downs Area of Outstanding Natural Beauty (“**AONB**”) and sets out the aims and principles of for the management of the AONB.

National Policy Statements

- 9.10 Paragraph 5 of NPPF confirms that the national policy statements (“**NPSs**”) form part of the overall framework of national planning policy and may be a material consideration in preparing plans and making decisions on planning applications. These include:

- Overarching National Policy Statement for Energy (EN-1) (**APP3.15**); and
- National Policy Statement for Renewable Energy Infrastructure (EN-3) (**APP3.16**).

- 9.11 While these NPSs are primarily designed to provide a policy framework for nationally important developments (Nationally Significant Infrastructure Projects (“**NSIPs**”) which will pass thorough a different planning procedure for a Development Consent Order (in the case of solar developments these are proposals for more than 50MW generation capacity), they are confirmed to be a material consideration in the determination of planning applications such as the Proposed Development below the 50MW limit.

- 9.12 Paragraphs 2.3.3 and 2.3.4 of EN-1 set out the Government’s position on achieving net zero and also makes reference to small-scale development determined at a local level (i.e. not NSIP):

“Our objectives for the energy system are to ensure our supply of energy always remains secure, reliable, affordable, and consistent with meeting our target to cut GHG emissions to net zero by 2050, including through delivery of our carbon budgets and Nationally Determined Contribution. This will require a step change in the decarbonisation of our energy system”.

*Meeting these objectives necessitates **a significant amount of new energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level**. This includes the infrastructure needed to convert primary sources of energy (e.g. wind) into energy carriers (e.g. electricity or hydrogen), and to store and transport primary fuels and energy carriers into and around the country. It also includes the infrastructure needed to capture, transport and store carbon dioxide. The requirement for new energy infrastructure will present opportunities for the UK and contributes towards our ambition to support jobs in the UK’s clean energy industry and local supply chains.”* (emphasis added)

- 9.13 The need for renewables is recognised in paragraph 3.3.62, where it states that “Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure”. Paragraph 3.3.63 goes on to state:

“Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible.”

- 9.14 EN-3 relates to renewable energy and paragraph 2.10.9 advises that:

“The government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions by 2050. As such,

solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector."

- 9.15 Much of the guidance contained in EN-3 outlining the considerations involved in the siting of a solar farm are similar to those outlined in the Planning Practice Guidance for Town and Country Planning Act applications. However, EN-3 does provide further guidance on the importance of the grid connection in the viability of solar proposals.

"2.10.22 Many solar farms are connected into the local distribution network. The capacity of the local grid network to accept the likely output from a proposed solar farm is critical to the technical and commercial feasibility of a development proposal.

...

2.10.24 In either case the connection voltage, availability of network capacity, and the distance from the solar farm to the existing network can have a significant effect on the commercial feasibility of a development proposal.

2.10.25 To maximise existing grid infrastructure, minimise disruption to existing local community infrastructure or biodiversity and reduce overall costs, applicants may choose a site based on nearby available grid export capacity".

National Planning Policy Framework

- 9.16 The NPPF, released in March 2012, sets out the Government's planning policies for England and how these are expected to be applied. It has subsequently been updated on a number of occasions, the most recent update having taken place in December 2023 (**APP3.4**).
- 9.17 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF is the primary statement of national planning policy and sets out the Government's objectives for the planning system and in particular those for achieving sustainable development. The three dimensions of sustainable development are economic, social and environmental.
- 9.18 The NPPF is an important material consideration and substantial weight should be attributed to it in the determination of this planning appeal. The relevant provisions of the NPPF for the Proposed Development are as follows.
- 9.19 The NPPF introduces a presumption in favour of sustainable development. For decision making this is defined in paragraph 11 as approving development proposals which accord with the development plan without delay; and where the development plan is silent, absent or relevant policies are out of date, permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits of specific policies of the NPPF that indicate that development should be restricted.
- 9.20 Section 14 of the NPPF outlines policy guidance on meeting the challenge of climate change, flooding and coastal change.

"160. To help increase the use and supply of renewable and low carbon energy and heat, plans should:

- a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);*

- b) *consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and*
- c) *identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for colocating potential heat customers and suppliers.*

...

163. *When determining planning applications for renewable and low carbon development, local planning authorities should:*

- a) *not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions;*
- b) *approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas;*
- c) *in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable."*

9.21 Section 15 of NPPF relates to conserving and enhancing the natural environment and the following paragraphs are of relevance to the determination of the Proposed Development.

"180. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) *maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*

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

...

186. When determining planning applications, local planning authorities should apply the following principles:

- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate."*

- 9.22 Section 16 relates to conserving and enhancing the historic environment and sets out the Government's policies on these matters. Paragraph 201 of the NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). Paragraph 208 advises that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

National Planning Practice Guidance

- 9.23 The national Planning Practice Guidance ("PPG") was originally launched on 28 August 2013 by the Department for Communities and Local Government in draft for testing and comment as a 'Beta' web-based resource. It was formally adopted on 6 March 2014 and replaced a number of guidance documents (**APP3.5**).
- 9.24 It adds further context to the NPPF and provides a series of guidance notes on a number of procedural elements of the planning system as well as more detailed guidance on area specific matters.
- 9.25 Whilst several sections of the PPG will be relevant, paragraph 013 (Reference ID: 5-013-20150327) of the 'Renewable and low carbon energy' section of the PPG is considered to be of particular relevance to the Proposed Development. That paragraph provides as follows:

"What are the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms?"

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Particular factors a local planning authority will need to consider include:

- encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;*
- where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. See also a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013 and written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015.*
- that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- the proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;*
- the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- the need for, and impact of, security measures such as lights and fencing; great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

The approach to assessing cumulative landscape and visual impact of large scale solar farms is likely to be the same as assessing the impact of wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero."

10. Principal Issues

- 10.1 Whilst the Appellant does not agree with the decision of the Council, Reasons for Refusal have been provided and the Appellant is entitled to assume that all of the grounds of objection to the Proposed Development are encompassed therein. As such, the Appellant has prepared its case accordingly.

Landscape and Visual

- 10.2 In relation to landscape character and visual amenity, the first Reason for Refusal ("**RfR1**") states that the Proposed Development would:
- 10.2.1 result in significant adverse individual and cumulative effects on landscape character and visual amenity that cannot be appropriately mitigated; and
- 10.2.2 harm the amenity and experience of users of the public rights of way network.
- 10.3 It concludes that the benefits of the Proposed Development would not outweigh these harms and so would be contrary to policies SP1, SP6, ENV1, ENV3a, ENV5, ENV10 and ENV13 of the Ashford Local Plan (**APP3.1**), policies AB4, AB10 and AB11 of the emerging Aldington and Bonnington Neighbourhood Plan (**APP3.3**) and the provisions of the NPPF (**APP3.4**) and NPSs EN-1 (**APP3.15**) and EN-3 (**APP3.16**).
- 10.4 Reasons for refusal should provide a clear indication as to why a proposed development is contrary to policy so that the applicant can decide on the necessity for amendments to the scheme and/or be able to resubmit or identify the issues that need to be addressed in an appeal. However, other than users of public rights of way, RfR1 does not explicitly state the locations and extents of the significant adverse effects on landscape character and visual amenity or the landscape resources and visual receptors that would be affected. It also does not state the schemes which, in conjunction with the Proposed Development, would give rise to significant adverse cumulative effects and does not state why the mitigation is not appropriate. In essence, RfR1 is generic in nature and so the Planning Officer's report (**APP1.19**) has been examined, alongside the consultation responses referred to within that report. These matters are discussed below in relation to the landscape resources and visual receptor types in the study area, the mitigation measures and the other schemes that could give rise to cumulative effects.

Designated Landscapes

- 10.5 In relation to the only designated landscape in this study area, the Kent Downs National Landscape (AONB), the statutory consultees (Kent Downs AONB unit and Natural England) do not object and consider that the proposal would not result in significant adverse or unacceptable impacts on this designated landscape or its setting. The Planning Officer discusses effects on the AONB in some detail (paragraphs 85 – 90). By referencing Policy ENV10, he gives the impression that, in his opinion, the predicted effects on landscape extend to the AONB or its setting, and states that "*these significant effects require weighing in the planning balance against other benefits of the proposed development*". However, significant effects on designated landscapes are not cited in RfR1 and so designated landscapes are not discussed in any further detail in this Statement of Case.

Landscape Fabric and Character

- 10.6 In relation to effects on the landscape fabric and character, the Planning Officer states (paragraphs 69 – 90) that he concurs with LMS' view that "*the LVIA contains very limited description of the landscape characteristics of the site. Of particular note is the absence of consideration of 'landscape fabric', defined in the relevant methodology as 'the landscape*

features and elements of the site'. The submission contains no real baseline assessment of landscape elements (or of landscape qualities) reflected by the site itself which would inform an assessment of sensitivity. It also provides only limited analysis of the degree to which the land affected by the proposals reflects the key characteristics of the various landscape character areas within the public assessments referred to above" He concludes that "in the absence of a detailed analysis of the baseline conditions and representativeness of the site itself in a landscape character context, it is difficult to inform an assessment of sensitivity or understand the assessment of effects".

- 10.7 In relation to the landscape fabric and character of the Site itself (rather than the wider landscape), the LVIA describes the landscape fabric and character of the Site and assesses the effects of the Proposed Development on the Site landscape in ES Chapter 11 (**APP1.8.2**) where it provides:
- 10.7.1 A detailed description of the landscape features and elements of the Site and immediate surroundings in paras 11.22 – 11.28.
 - 10.7.2 The key characteristics and sensitivity of the East Stour Valley Landscape Character Area ("**LCA**") (much of which is occupied by the western and eastern parcels of the Site) and of the Evegate Mixed Farmlands LCA (most of which is occupied by the northern parcel of the Site) as set out in the published landscape character assessment (Jacobs 2009 (**APP4.4**)) in paragraph 11.32.
 - 10.7.3 A detailed analysis of the effects on landscape character at viewpoints 1, 2 and 3, which are all located within or on the boundary of the Site including assessments of value, susceptibility, sensitivity, the magnitude of effect and both individual and, where appropriate, cumulative effects on landscape character in those locations (Table B3 in ES Appendix 11.2, **APP1.8.3**). In this analysis, it is clear how the sensitivity of the Site landscape compares with the sensitivity given for each LCA in the published landscape character assessment. For example, the Evegate Mixed Farmlands LCA, which also contains the nearby Sellindge Converter Station and is bounded to the north by the M20 and to the south by HS1 and local railway lines, is given an overall sensitivity rating of "Low" in the published landscape character assessment, whereas the part of this LCA that contains the Site is assessed to be "Medium/Low" at Viewpoint 1.
 - 10.7.4 An assessment of effects on the landscape fabric of the Site, which draws on the baseline information and findings above, (in paragraphs 11.57 – 11.62 of the LVIA).
 - 10.7.5 An assessment of the effects on the landscape character of the Site, which draws on the baseline information and findings above, (in paragraphs 11.63 – 11.74 of the LVIA).
- 10.8 The Planning Officer paraphrases the conclusions in the LVIA regarding the effects of the Proposed Development on the landscape fabric of the Site (paragraph 75, (**APP1.19**)) and the effects on the landscape character of the Site (paragraph 76) stating that "*the LVIA predicts a significant adverse (long term but temporary) effect from the development during the operational phase, which would diminish over time as the landscaping becomes established...*". He then concludes (without any further assessment) that "*the proposals would result in a dominance of solar panels and associated infrastructure across much of the existing site occupied by arable and pasture land which would result in long term change of land cover and land use and overall landscape character*". He also states, "*in my opinion, the mitigation planting would be unlikely to sufficiently diminish the impacts on overall land use and character to reduce long-term effects on the site as predicted*".

- 10.9 The LVIA actually states that there would be significant adverse effects on the landscape character of the Site during the operational phase that would “*diminish to a degree as the mitigation proposals establish and reach maturity. However, across the site itself, these significant changes would still be evident*” (ES Chapter 11, paragraph 11.70, **APP1.8.2**). Therefore, the LVIA is clear that there would be significant effects on the landscape character of the Site for the full duration of the operational phase of the Proposed Development.
- 10.10 It is important to appreciate that any solar farm consisting of ground-mounted solar PV arrays would result in a “*long-term change of land cover, land use and landscape character*” across much of the site. Long term change to the landscape character of a development site cannot be a justification for refusal, otherwise it would be impossible to site any solar farm in the UK. Furthermore, “*long-term change of land cover, land use and landscape character*” does not necessarily equate to “*significant adverse effects on landscape character*” as cited in RfR1.
- 10.11 As noted in the Planning Officer’s Report (paragraph 64) (**APP1.19**), the PPG on Renewable and Low Carbon Energy (**APP3.5**) recognises that “*the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes*” and the NPPF (**APP3.4**) states that applications for renewable energy should be approved “*if its impacts are (or can be made) acceptable*” (paragraph 163). Therefore, with regard to effects on landscape fabric and character, the decision maker needs to consider not just whether there would be significant effects on landscape character or not, but the geographical extent and degree of significant effects, and the extent to which these can be mitigated such that, when placed in the planning balance, these effects can be considered acceptable.
- 10.12 With regard to effects on the wider landscape, the Planning Officer describes the assessment of effects at each of the viewpoints (as provided in ES Appendix 11.2, **APP1.8.3**) and, at Viewpoints 2, 3, 6 and 7, disagrees with the effectiveness of the mitigation planting and, therefore, expects the predicted effects on landscape character from year 10 onwards to be greater than predicted at these locations (but does not say if the effects that he expects would be significant). He notes the landscape character effects predicted in the viewpoint analysis for Viewpoints 8, 9, 10 and 12 (all of which are not significant) but does not say whether he agrees or disagrees with these findings.
- 10.13 Consequently, neither the Planning Officer’s Report or RfR1 are clear regarding the geographical extent and degree of significant effects on landscape character that the Council considers should be placed in the planning balance. Effects on the landscape fabric and character of the Site and on the landscape character of the wider study area are discussed in more detail below.

Visual Amenity

- 10.14 As noted in the Planning Officer’s Report, the visualisations from the 12 viewpoint locations utilise summer photography. This was taken on 10 and 11 October 2021, just before the leaves turned, and the photography for viewpoint 13 was taken on 7 July 2023, so these illustrate views that would be typical of the late spring, summer and early autumn months rather than winter. Summer photography is normally used as the basis of year 10 photomontages and winter photography is normally taken to illustrate the worst-case scenario. In this case, winter photography was not undertaken although the assessor did undertake the LVIA fieldwork during both the summer and winter months (June, September and November 2021). Depending on the timing of this appeal, it may be feasible for the Inspector’s site visit(s) to be undertaken during the winter months so that the screening effects of intervening vegetation in winter can be compared to the summer views illustrated.

- 10.15 Regarding effects on visual amenity, Aldington and Bonnington Parish Council is concerned that the placement of panels on the southern slope of Bested Hill would have an adverse impact on the visual amenity of nearby residents (but does not identify specific residential properties) (**APP2.1.1**). The Parishes of Aldington and Bonnington include the western and eastern parcels of the Site and extend just over 5km south and just over 3km west of the Site. There would be views from Church Lane, some footpaths on and close to the Site and some residential properties within the Parish of Aldington which are described further in this section.
- 10.16 Smeeth Parish Council objects to the proposal (**APP2.1.22**) due to, amongst other matters, the negative visual impact for those in surrounding villages (but does not identify specific villages). Smeeth Parish includes the northern parcel of the Site and extends just over 1km north of the M20 and approximately 2km west. The village of Smeeth is located to the north of the M20 and there would not be any views of the Proposed Development from this village. There would be views from footpaths and a few residential properties within the Parish to the south of the M20 and these effects are described later in this section.
- 10.17 Mersham Parish Council objects to the proposal (**APP2.1.18**) due to, amongst other matters, the negative visual impact of the application for those in Mersham. Mersham Parish is approximately 2km west of the Site at its nearest point and the ZTV in SEI Figure 11.3 Revision A (**APP1.14.4**) suggests that there could be some zones of visibility within this parish to the south of the village of Mersham. However, cumulative Viewpoints D and E are located within this Parish and the visualisations for Viewpoints D and E illustrate that the Proposed Development would be screened by vegetation from these locations. Furthermore, fieldwork observations suggest that intervening topography and/or vegetation would screen the Proposed Development from most of the land within the Mersham Parish. Therefore, there are unlikely to be any significant adverse effects on visual amenity within the Parish of Mersham. There are no objections in relation to other visual receptor types or locations such as visitors at visitor attractions, walkers on open access land, motorists and passengers on roads, or passengers on the nearby railway line.
- 10.18 The Planning Officer discusses effects on visual amenity, as identified in the LVIA, mentioning in particular, views from the older part of Aldington village, from Viewpoints 6 – 8, from the Aldington Races point-to-point course (which it describes an important community event), from two long distance recreational routes (Saxon Shore Way and North Downs Way), from the network of public rights of way ("**PROW**") within the area and from Church Lane.
- 10.19 With regards to PROW, Kent County Council PROW Officer (consultation response of 7 March 2024 (**APP2.2.4**)) states public footpaths AE437, AE432, AE457, AE459 would be affected and notes that public footpaths AE656 and AE657 are also in close proximity. She considers there to be an underestimation of the significance of the effect of the development and the impact on both the physical resource and the amenity value of the PROW.
- 10.20 In contrast, Kent Ramblers welcome the decision to preserve the existing footpaths which pass through the Site (AE432 and AE459), approve the use of stock-proof fencing instead of "prison type" metal fencing used in other solar farms, and are pleased that the existing PROWs will remain open during construction phase and will be fenced off from the construction site (**APP2.1.17**).
- 10.21 Effects on PROW are also raised in the responses from Mersham and Smeeth Parish Councils (footpath AE459), from Church Lane Group (footpath AE474 close to St Martin's Church and footpath AE459).
- 10.22 The Planning Officer discusses views from footpaths AE432, AE459, AE457 and AE437, together with views from footpaths on the ridgeline to the south (**APP1.19**).

- 10.23 On the basis of the above, this section of the Statement of Case discusses the predicted effects on the visual amenity of residents in settlements and individual properties, visitors to visitor attractions, users of the long-distance recreational routes and local public rights of way, motorists on public highways, and passengers on the nearby rail route.

Mitigation

- 10.24 With regard to further mitigation, Aldington and Bonnington Parish Council requests a modified proposal that removes solar panels from the south side and crown of Bested Hill and a detailed scheme of native species, that specifies protection from damage by wildlife and replacement if trees fail to grow (**APP2.1.1**). The Church Lane Group also recommend amending the layout and additional landscaping to reduce and mitigate impacts on what they refer to as “*designated landscapes*” and suggests the creation of a 10m wide grassed area and planting of indigenous species hedges either side of footpath AE459 (**APP2.1.3 to APP2.1.7**). Kent Ramblers request kissing gates (rather than stiles) and for all entry and exit points to be open or gated in a user-friendly way for less able walkers (**APP2.1.17**). They also request further information on path maintenance. In contrast, the Kent County Council PROW officer states that, in her opinion, the mitigation proposed (new hedgerow planting) remains insufficient (**APP2.1.10**). She expects enhancements, mitigation, compensation and management strategies to ensure that the public (residents and visitors) retain the quality and quantity of access provision. She expects any stiles to be removed and states that there should be a presumption against installing gates unless this can be justified to the County Council.
- 10.25 The Planning Officer questions the effectiveness of the mitigation measures and states that “*In my view, there are a number of landscape and visual effects that cannot be appropriately mitigated*” (paragraph 109) (**APP1.19**). The Planning Officer does not recommend any further mitigation measures.

Cumulative Effects

- 10.26 The Kent County Council PROW officer has concerns about inter-project effects with the other existing projects proposed in the area (the proposed NSIP Stonestreet Solar Farm and the proposed Otterpool Garden Village). Mersham and Smeeth Parish Councils (**APP2.1.18** and **APP2.1.22**) also raise concerns regarding cumulative impact with the Evolution Power NSIP application (Stonestreet Green Solar) for parishioners and walkers from Mersham and Smeeth.
- 10.27 Potential cumulative effects with the proposed Stonestreet Solar Farm (now an NSIP application) and the proposed Otterpool Garden Village (now permitted and under construction) are discussed later in this section.

Assessment

- 10.28 Most of the issues raised in the consultation responses and in the Planning Officer’s report have been considered and set out in detail in the LVIA in ES Chapter 11 (**APP1.8.2**) and in the cumulative LVIA (“**CLVIA**”) in the SEI (**APP1.14**). Hence, this section of the Statement of Case draws on these two assessments and discusses the landscape and visual issues in relation to RfR1.
- 10.29 In particular, this section of the Statement of Case describes the proposed landscape and visual mitigation with some further mitigation to address effects on footpaths AE432 and AE459 through the Site, and summarises the individual and cumulative effects of the Proposed Development on landscape character and visual amenity, including the amenity of users of the PROW network. It also draws comparisons between the predicted effects and the relevant policies in the Local Plan (**APP3.1**) and emerging Neighbourhood Plan

(**APP3.3**). However, the degree to which these effects are outweighed by the benefits of the scheme and, therefore, the degree of conformance with policy is discussed in Section 12.

- 10.30 The Proposed Development is time limited and would have three distinct phases – a short-term construction phase, a long-term operational phase and a short-term decommissioning phase. It also includes mitigation planting which would progressively screen the development during the operational phase.
- 10.31 Hence the LVIA in ES Chapter 11 (**APP1.8.2**) and the CLVIA in the SEI (**APP1.14**) have considered the effects on landscape character and visual amenity during the construction phase, the early operational phase, 10 years post construction, the decommissioning phase and post-decommissioning.
- 10.32 The LVIA and CLVIA also characterise the predicted effects in terms of whether these are short, medium or long-term, temporary or permanent, reversible or irreversible, beneficial or adverse, individual (arising from the Proposed Development in the context of the current baseline) or cumulative (in conjunction with permitted and other proposed development) and whether they are significant or not significant.
- 10.33 It is important to note that effects that are described as “significant” are effects that have been deemed by the assessor to be material to the planning decision (see SEI Appendix 11.1, paragraph A2.15, **APP1.14.3**). This definition is not necessarily the same as “EIA significance” which is not defined in the EIA Regulations (**APP9.2**). Furthermore, significant adverse effects are not necessarily “unacceptable effects” (see SEI Appendix 11.1, paragraph A2.92). The acceptability of any predicted significant adverse effects on landscape character and visual amenity is discussed as part of the planning balance in Section 12 of this Statement of Case.
- 10.34 Some of the figures and visualisations in ES Volumes 3 and 4 (**APP1.8.4** and **APP1.8.5**) and in Volume 3 of the SEI (**APP1.14.4**) have been supplemented and updated during the course of the application with some submitted as part of a package of Further Information (“FI”) (**APP1.18**), as set out in full in Section 4 above. One further plan is being submitted with this Statement of Case. Hence, the following figures are the ones referred to in this section of the Statement of Case:
- ES Volume 3 – Figures 6.1 – 6.7 – to illustrate the development proposals (**APP1.8.4**);
 - SEI Volume 3 - SEI Figures 11.1 – 11.8 Revision A (these replace Figures 11.1 – 11.8 in ES Volume 3) (**APP1.1.14.4**);
 - SEI Figure 11.9 Revision B (this replaces Figure 11.9 in ES Volume 3 and SEI Figure 11.9 Revision A) (**APP1.21**) and is submitted with this Statement of Case (see paragraph 10.35 below);
 - ES Volume 4 Visualisations – to illustrate the existing and predicted views of the Proposed Development from Viewpoints 1 – 4, 6 and 8 – 12 (supplemented in SEI for Viewpoints 9 – 13) (**APP1.14.5**);
 - FI Visualisations - Viewpoint 5 Revision A and Viewpoint 7 Revision A (these replace ES Volume 4 Visualisations for Viewpoints 5 and 7) (**APP1.18**);
 - SEI Volume 3 – SEI Figure 11.10 - Layout Progression (**APP1.14.4**);
 - FI Viewpoint 6 (this is SEI Figure 11.11 Revision A - VP 6 (Layout Refinement)) (**APP1.1.18.3**);

- FI Viewpoint 7 (this is SEI Figure 11.12 Revision A - VP 7 (Layout Refinement)) (**APP1.18.4**);
- FI Viewpoint 8 (this is SEI Figure 11.13 Revision A - VP 8 (Layout Refinement)) (**APP1.18.5**);
- SEI Volume 3 – SEI Figure 11.14 – Cross Section Locations (**APP1.14.4**);
- SEI Volume 3 – SEI Figures 11.15 – 11.24 – Cross-Sections A-A' – J-J' (**APP1.14.4**);
- SEI Volume 3 – SEI Figure 11.25 – East Stour SEI CZTV Development Scenario 2 (**APP1.14.4**);
- SEI Volume 3 – SEI Figure 11.26 – East Stour SEI CZTV Development Scenario 3 (**APP1.14.4**);
- SEI Volume 4 Visualisations – to illustrate the existing and predicted views of the Proposed Development from Viewpoints 9 – 13 (within the AONB) (**APP1.14.5**); and
- SEI Volume 4 Visualisations – to illustrate the existing and predicted cumulative views from Viewpoints 7, 9 and A – E (**APP1.14.5**).

Proposed Landscape and Visual Mitigation

10.35 The proposed landscape and visual mitigation measures are illustrated in SEI Figure 11.9 Revision B (**APP1.21**) and in cross-sections A-A' – J-J' in SEI Figures 11.14 – 11.24 (**APP1.14.4**). These include:

- 10.35.1 New permissive footpath (Footpath A) around the northwestern corner of the northern parcel of the Site – a permissive footpath was created under a farm conservation scheme providing a circular route from the nearby Evegate Business Park. Permissive access expired in September 2012 but the route has continued to be maintained and available to the public. A scheme for a new permissive footpath along the part of the route that is within the Site would be secured by way of a condition on the planning permission and maintained for the lifetime of the Proposed Development (such a condition is proposed at **Appendix 6** of this Statement of Case). This would provide an alternative route for walkers on Footpath AE432 who would prefer to walk around, rather than through, the Site and views of the solar PV arrays in the northern parcel from this new permissive footpath would be progressively screened by the proposed new hedgerow planting along the northern and western boundaries of the northern parcel.
- 10.35.2 New permissive footpath (Footpath B) around the southern boundary of the eastern parcel of the Site – a scheme for this new permissive footpath would be secured by way of a condition on the planning permission and maintained for the lifetime of the Proposed Development (such a condition is proposed at **Appendix 6** of this Statement of Case). This would provide an alternative route for walkers on Footpath AE459 who would prefer to walk around, rather than through, the Site and views of the solar PV arrays in the eastern parcel from this new permissive footpath would be progressively screened by the proposed new hedgerow planting alongside this footpath.
- 10.35.3 New native hedgerows with scattered hedgerow trees to be planted along the outside of the perimeter fence along the northern and western boundaries of the northern parcel – to progressively screen views of the northern parcel from a

section of Footpath AE432 (see cross-section B-B', SEI Figures 11.14 and 11.16, **APP1.14.4**) and from the new permissive footpath that would run around the northwestern corner of the northern parcel.

- 10.35.4 New native hedgerows to be planted along the outside of the perimeter fence along the southern and western boundaries of the western parcel together with new low density native tree planting – to progressively screen views of the western parcel from Footpath AE457.
- 10.35.5 New native hedgerow to be planted along the southern boundary of the western parcel – to progressively screen views from The Paddock.
- 10.35.6 New native hedgerow to be planted along the outside of the perimeter fence along the northern and southern boundaries of the central parcel – to progressively screen views of the central parcel from a section of Footpath AE656 (to the north) and Church Lane and Bested House (to the west and southwest).
- 10.35.7 New native hedgerow planted on the top of the roadside verge along Church Lane, plus improvements to the existing hedgerow along Church Lane by increasing the depth of the hedgerow, increasing the range of species and planting hedgerow trees – to progressively screen views of the western and central parcels from Bested House and most of Church Lane. A short (~100m) section of the existing roadside hedgerow (from the bend to the railway bridge) needs to be managed at its current height for road safety reasons.
- 10.35.8 New native hedgerows to be planted inside the Site alongside the existing boundary with Bested House, along the outside of the perimeter fence along the western boundary of the eastern parcel and along the southern boundary of the eastern parcel (with scattered hedgerow trees in the southern boundary) – to progressively screen views of the eastern parcel from Bested House, Church Lane and part of Footpath AE459.
- 10.35.9 Improvements to existing field boundaries including gap planting, increasing the width and species mix of existing hedgerows with new planting and management, including the field boundary between the western and central parcels, alongside Church Lane and alongside the new permissive footpath (Footpath B).
- 10.35.10 Wildflower/grassland over much of the Site, plus riparian mixed planting alongside the streams and ditches on the Site – to improve the biodiversity, landscape character and visual amenity of the Site (see cross-sections A-A' – J-J', SEI Figures 11.14 - 11.24, **APP1.14.4**).
- 10.36 A detailed landscape scheme setting out the tree and hedgerow species, and wildflower/grassland species mixes, methods of protection (during construction and from grazing animals) and the maintenance and management of these, including replacement planting, would be submitted for approval by way of a condition on the planning permission (a condition requiring submission of such a scheme is proposed at **Appendix 6** of this Statement of Case).

Development Scenario 1 (LVIA) – Effects of the Proposed Development in the Context of the Current Landscape and Visual Baseline

- 10.37 The following three sections summarise the effects of the Proposed Development in the context of the current landscape and visual baseline (which includes all operational developments in the surrounding area). As shown on SEI Figures 1.1 and 11.3 Revision A

(**APP1.14.4**), the operational developments include:

- HS1 and local railway lines - these run east/west on an embankment, separating the northern parcel from the rest of the Site and forming the boundary between the Evegate Mixed Farmlands and East Stour Valley LCAs.
- M20 motorway - this also runs east/west on an embankment immediately north of the northern parcel of the Site and is located in the Evegate Mixed Farmlands LCA and also runs through the Mersham Farmlands LCA.
- Sellindge Converter Station - this is located between the railway and M20 embankments, immediately east of the northern parcel of the Site, in the Evegate Mixed Farmlands LCA.
- Sewage works - this is located between the railway and M20 embankments, to the immediate east of the Sellindge Converter Station and just outside the Evegate Mixed Farmlands LCA.
- Sellindge Solar Farm - this is located adjacent to the western and eastern parcels of the Site and in the East Stour Valley LCA.
- Overhead electricity lines on pylons (400kV) and wooden poles (33kV), which run across the Site and connect to the Sellindge Converter Station.

Visual Analysis

- 10.38 The assessment of the effects of the Proposed Development on landscape character and visual amenity in the context of the current baseline, as described in ES Chapter 11 (**APP1.8.2**), was informed by a visual analysis that included a theoretical visibility analysis, fieldwork observations and a viewpoint analysis.
- 10.39 The theoretical visibility analysis involved the generation of zones of theoretical visibility ("**ZTVs**") using a computer based intervisibility package, the Ordnance Survey Digital Terrain Model ("**DTM**") with height data at 5m intervals and models of the proposed East Stour solar arrays and the nearby operational Sellindge Solar Farm. The 5km radius ZTV shown on SEI Figures 11.1 – 11.7 (**APP1.14.4**) illustrates the theoretical visibility of the proposed East Stour solar arrays only. The 5km radius cumulative ZTV ("**CZTV**") shown on SEI Figure 11.8 (**APP1.14.4**) illustrates the theoretical visibility of the proposed East Stour solar arrays and the nearby operational Sellindge Solar Farm. Both the ZTV and CZTV were generated using an observer eye level height of 2m and the highest points of the solar panels as the targets (2.6m above ground level ("**agl**") for Sellindge Solar Farm and 3m agl for the Proposed Development).
- 10.40 As both the ZTV and CZTV are based on bare terrain data, they do not take account of the screening effects of surface features such as vegetation and buildings. Therefore, the locations and extents of the zones of visibility on the ZTV and CZTV illustrate theoretical worse cases and the actual zones of visibility on the ground are less extensive and more intermittent.
- 10.41 Twelve viewpoint ("**VP**") locations (VPs 1 – 12) were selected to illustrate and assess the effects of the Proposed Development on the landscape character and visual amenity of the Site and surrounding area in the LVIA. The locations of these viewpoints are illustrated on SEI Figures 11.1 – 11.8 Revision A (**APP1.14.4**). These viewpoints were provided to officers from the Council and the Kent Downs AONB Unit (see ES Appendix 5.4, **APP1.8.3**). The assessor was able to have further discussions on viewpoint locations with the Kent Downs AONB unit but all attempts to gain any feedback from the Council on the scope of

the LVIA prior to its inclusion in the ES (including the extent of the study area, the viewpoint locations and the visualisation type) were unsuccessful (see paragraph 11.36, SEI Chapter 11, **APP1.14.2**).

10.42 The effects on landscape character and visual amenity that would arise at the 12 viewpoint locations during the early operational phase and by 10 years post construction are described and assessed in the viewpoint analysis in ES Appendix 11.2 (**APP1.8.3**) and these effects are summarised in Table 11.2 in ES Chapter 11 (**APP1.8.2**).

10.43 Subsequent to the submission of the ES and planning application, a further viewpoint in the AONB (VP 13) was requested, plus photomontages of the more distant viewpoints in the AONB (VPs 9 – 13). Consequently, the existing and predicted views from the viewpoints are illustrated in ES Volume 4 Visualisations (for VPs 1 – 4, 6 and 8 – 12) (**APP1.8.5**), in SEI Volume 4 Visualisations (for VPs 9 – 13) (**APP1.14.5**) and in the FI Visualisations (for VPs 5 and 7) (**APP1.18**).

Effects on Landscape Character

10.44 RfR1 states that the Proposed Development would result in “*significant adverse individual ... effects on landscape character ... that cannot be appropriately mitigated*”.

10.45 The landscape of the Site and surrounding area has been characterised at different scales in four different landscape character assessments. The locations and extents of the Site and LCAs in the surrounding area are illustrated on SEI Figures 11.2 – 11.4 (**APP1.14.4**) as follows:

10.46 SEI Figure 11.2 – illustrates the boundaries of the National Character Areas (“**NCAs**”) (**APP4.2**) and the Kent County LCAs (see ES Appendix 11.1 (**APP1.8.3** and **APP4.2**).

10.47 SEI Figure 11.3 – illustrates the boundaries of the Ashford Borough LCAs (see ES Appendix 11.1 (**APP1.8.3**, **APP4.4** and **APP4.5**).

10.48 SEI Figure 11.4 – illustrates the boundaries of the Kent Downs AONB LCAs which has now been published (**APP4.6**).

10.49 The LCAs in all four landscape character assessments are described and have informed the landscape character baseline in the LVIA in ES Chapter 11 (**APP1.8.2**). However, the assessment of effects on landscape character focussed on the predicted effects within the Ashford Borough and Kent Downs AONB LCAs plus two of the Kent Downs LCAs (in order to address landscape character in the gaps between the Ashford and Kent Downs LCAs).

10.50 The viewpoint analysis in ES Appendix 11.2 (**APP1.8.3**) and summarised in Table 11.2 in ES Chapter 11 (**APP1.8.2**), identified significant effects on landscape character during the early operational phase and by 10 years post construction, at the following locations:

- VP 1 – Inside the northern boundary of the Site and within the Evegate Mixed Farmlands LCA – during the early operational phase and at 10 years post construction.
- VP 2 – Just inside the southern boundary of the Site and within the East Stour Valley LCA - during the early operational phase (no effects at 10 years post construction).
- VP 3 – On Church Lane between the eastern and western parts of the Site and within the East Stour Valley LCA - during the early operational phase and at 10 years post construction.

10.51 The viewpoint analysis is a useful tool as it looks in detail at the effects of the development

at 12 key locations within the study area that represent the LCAs (and visual receptors) within the zones of theoretical visibility shown on ES Figures 11.3 and 11.4 (**APP1.8.4**). However, in order to assess the extent of the individual effects of the Proposed Development throughout its lifetime (during the construction, early operational, 10 years post construction, decommissioning and post decommissioning phases) on the character of the Site and LCAs within the wider landscape, the findings of the viewpoint analysis were then combined with other fieldwork observations. The findings of this assessment are described in the ES (paragraphs 11.63 – 11.96) (**APP1.8.2**) and are summarised in Table 10.1 at **Appendix 4** of this Statement of Case.

- 10.52 Therefore, as concluded in paragraph 11.148 in ES Chapter 11 (**APP1.8.2**) significant effects on landscape character would occur during the operational phase on the Site (which includes part of the Evegate Mixed Farmlands LCA and part of the East Stour Valley LCA) and its immediate surroundings (within the East Stour Valley LCA along Church Lane and to the south <0.38km from the solar PV panels). By 10 years post construction, the mitigation planting would entirely or largely screen the Proposed Development such that significant effects on landscape character would occur within and immediately adjacent to the Site only (again, within the Evegate Mixed Farmlands LCA and part of the East Stour Valley LCA).
- 10.53 However, it would be impossible to site any commercial scale solar project in the UK without significantly affecting the character of at least the site it is located in and the immediate surroundings.
- 10.54 Therefore, whilst there would be significant adverse individual effects on landscape character, these have been minimised relative to the scale of the Proposed Development and would be appropriately mitigated.

Effects on Visual Amenity

- 10.55 RfR1 states that the Proposed Development would result in “*significant adverse individual ... effects on ... visual amenity that cannot be appropriately mitigated*”.
- 10.56 As noted in paragraphs 11.107 – 11.108 in ES Chapter 11 (**APP1.8.2**), the polarisation of public opinion on renewable energy is such that it is difficult to define significant changes in a view as having a definitely beneficial or definitely adverse effect on visual amenity for all members of the public who may experience that view. Accordingly, the assessment (in ES Chapter 11) identifies whether the predicted effects on visual amenity would be significant or not significant and, whilst it is acknowledged that these significant effects would be considered to be adverse by some, it is important that the broad range of public opinions on such effects is also taken into account in the decision-making process.
- 10.57 The predicted effects on the visual amenity of residents in settlements and individual properties, visitors to visitor attractions, users of the long-distance recreational routes and local PROW, motorists on public highways, and passengers on rail routes are discussed in paragraphs 11.105 – 11.146 in ES Chapter 11 (**APP1.8.2**). In summary the findings are:
- 10.57.1 Settlements – no significant effects on the visual amenity of residents in Aldington (due to partial or complete screening of the Proposed Development by intervening topography and/or vegetation) and no effects on the visual amenity of residents in the villages of Lympne, Bonnington and Aldington Frith (outside the ZTV) or on the visual amenity of residents in Stone Hill, Sellindge, Brabourne Lees, Mersham, Brabourne and Barrowhill (due to screening by topography and/or vegetation).
- 10.57.2 Residential properties:

- 10.57.2.1 Bested House (150m from nearest solar panels, see VP 3 (**APP1.8.5**)) – significant effects on visual amenity of residents during the construction and early operational phases due to views of the eastern parcel from the rear garden through gaps in the boundary hedgerow (which will be progressively screened by mitigation planting) and oblique views of the construction and operational phases in the western, central and eastern parcels of the Site from the northwest and southwest facing upper storey windows (bedrooms, bathroom, office space), a southwest facing flat roof space and any southeast facing upper storey windows.
- 10.57.2.2 The Paddock (150m south of the western parcel, see VP 2 (**APP1.8.5**)) - significant effects on the visual amenity of residents during the construction and early operational phases due to views of the western parcel (on southern slopes of Bested Hill) from two windows and a sunroom on the north façade of the property and the garden area to the west of the house, over the boundary hedgerow and rising landform (which will be progressively screened by mitigation planting).
- 10.57.2.3 Forehead, Hogben Farm, Forehead Farm, Middle Park Farm, Lower Park Farm and adjacent properties, Harringe Court and nearby properties, Evegate Manor, and Park Wood Cottage - no significant effects on the visual amenity of residents in these properties due to the construction and operational phases being largely screened by vegetation and landform.
- 10.57.2.4 Apple Barn, Woodleas Farm, Little Goldwell Farm, Symnell and nearby properties – no views of the Site and no effects on the visual amenity of residents in these properties.
- 10.57.3 Visitor attractions (see SEI Figure 11.6 Revision A, **APP1.14.4**):
 - 10.57.3.1 Aldington Races (a once-a-year event on Easter Monday located on a field to the south of the eastern parcel of the Site, see VP 4 (**APP1.8.5**)) - significant effects on the visual amenity of visitors during the early operational phase but the mitigation planting would provide a high degree of screening once established. In the Planning Officer's Report (**APP1.19**) this is described as an important community event. However, it is understood that this was last held in April 2023 and has not been held in 2024 due to a lack of volunteers. It is not known if this event will be held in the future.
 - 10.57.3.2 Fishing lakes - no significant effects on users of the nearest fishing lake (immediately south of the northern parcel of the Site) due to intervening woodland and the railway embankment, and no effects on the other fishing lakes in the study area (all outside the ZTV).
 - 10.57.3.3 Port Lympne Wildlife Park – no effects (outside the ZTV).
 - 10.57.3.4 Swanton Mill – previously hosted a museum which has now closed, and the Mill was sold at auction as a residential property in November 2023 so this is no longer a visitor attraction.
 - 10.57.3.5 Hatch Park deer park – this is crossed by public footpaths but is

not otherwise open to the public (and is outside the ZTV).

- 10.57.4 Long distance recreational routes – no significant effects on the visual amenity of users of Saxon Shore Way (see VP 8 (**APP1.8.5**)) and North Downs Way (see VPs 9 – 12 (**APP1.8.5**)) due to distance and screening and no effects on the visual amenity of users of the Sustrans Route 2 and The Royal Military Canal Towpath (see SEI Figure 11.6 Revision A, **APP1.14.4**).
- 10.57.5 Local PROW – see discussion below.
- 10.57.6 Public highways:
 - 10.57.6.1 Classified roads – no significant effects on the visual amenity of motorists and their passengers on the M20, A20 or any other A or B roads due to the degree of screening by intervening vegetation and topography and, with regards to the M20, the extremely short duration of the glimpsed views through vegetation in winter due to the speed of travel past the Site.
 - 10.57.6.2 Minor road network – a significant effect on the visual amenity of road users on a 1km section of Church Lane where it passes between the western, central and eastern parcels of the Site (see VP 3 (**APP1.8.5**)) as a result of views of the Proposed Development (construction and operational phases) over the roadside hedgerows (a short section of which will be kept at 1.5m height for road safety reasons) with views from the remainder of Church Lane. No significant effects on the visual amenity of road users on any other minor roads in the study area.
- 10.57.7 Rail routes – no significant effects on the visual amenity of passengers on HS1 and local rail services due to the degree of screening by intervening vegetation and the extremely short duration of the glimpsed views through vegetation in winter due to the speed of travel past the Site.
- 10.58 Therefore, significant effects on visual amenity would occur for residents in Bested House and The Paddock (during the construction and early operational phases), visitors to Aldington Races (a once-a-year, during the early operational phase if this event is held in the future), users of a 1km section of Church Road (during the construction and operational phases) and users of some local public rights of way. The latter is discussed in more detail below.

Visual Amenity of Users of the Public Rights of Way Network

- 10.59 RfR1 states that “*The development would also harm the amenity and experience of users of the public rights of way network*”.
- 10.60 The PROW network on and within 2.5km of the Site is illustrated on SEI Figure 11.7 Revision A (**APP1.14.4**). This includes public footpaths and a very short length of restricted byway. Viewpoints 1, 2, 4, 6, 7 and 8 represent views from some of these public footpaths.
- 10.61 The viewpoint analysis in ES Appendix 11.2 (**APP1.8.3**) and summarised in Table 11.2 in ES Chapter 11 (**APP1.8.2**), assessed the effects on the visual amenity of walkers on these public footpaths at the following locations:
 - 10.61.1 VP 1: on Footpath AE432 inside the northern boundary of the northern parcel of the Site – significant effects on the visual amenity of walkers arising from close

views of the northern parcel during the early operational phase (and at 10 years post construction although further mitigation planting is now proposed along this boundary (see SEI Figure 10.9 (**APP1.14.4**)) which will partially screen the development at 10 years post construction). No effects arising from the western and eastern parcels as views would be completely screened.

- 10.61.2 VP 2: on Footpath AE457 just inside the southern boundary of the western parcel of the Site - significant effects on the visual amenity of walkers arising from views of the western parcel during the early operational phase. No effects at 10 years post construction due to screening by mitigation planting and no effects arising from the northern and eastern parcels as views would be completely screened.
- 10.61.3 VP 4: on Footpaths AE460/AE459 – no significant effects on the visual amenity of walkers due to the eastern parcel being largely screened by intervening vegetation and landform. No effects at 10 years post construction due to screening by mitigation planting and no effects arising from the northern and western parcels as views would be completely screened.
- 10.61.4 VP 6: on Footpath AE477 - no significant effects on the visual amenity of walkers due to distance and intermittent views, with the western, central and eastern parcels partially screened by intervening vegetation and landform. No effects arising from the northern parcel as views would be completely screened.
- 10.61.5 VP 7: Footpath AE474 - no significant effects on the visual amenity of walkers due to distance, with the western, central and eastern parcels partially screened by intervening vegetation and landform. No effects arising from the northern parcel as views would be completely screened.
- 10.61.6 VP 8: Footpath AE485 - no significant effects on the visual amenity of walkers due to distance, with the western, central and eastern parcels largely screened by intervening vegetation and landform. No effects arising from the northern parcel as views would be completely screened.
- 10.62 The assessment of effects on the visual amenity of walkers on footpaths on and around the Site is provided in paragraphs 11.136 – 11.140 in ES Chapter 11 (**APP1.8.2**) and summarised in Table 10.2 at **Appendix 5** of this Statement of Case.
- 10.63 As explained in paragraphs 11.136 - 11.140 in ES Chapter 11 the PROW in the landscape local to the Site vary between enclosed character, partially enclosed and open, depending on the undulating landform and vegetation levels local to each route. As a result, visibility of the Proposed Development would vary between routes and also along different sections of the same route.
- 10.64 The most open views during the construction and early operational phases would be from the footpaths that cross the Site (Footpaths AE432 and AE437 across the northern parcel, Footpath AE457 alongside the western parcel and Footpath AE459 across the eastern parcel) and there would also be intermittent views from Footpath AE656 between the railway embankment and the western and central parcels. The LVIA states that a space of at least 10 – 15m width between the Site perimeter fence would be allowed for each footpath, with the solar panels set a further 4 – 5m behind the fencing (paragraph 11.136 in ES Chapter 11). The cross-sections subsequently submitted with the SEI (Sections A-A' – J-J' in SEI Figures 11.14 – 11.24, **APP1.14.4**) suggest that the separation distances between these footpaths and the perimeter fencing and solar panels will be much greater along most of these routes. However, there would still be significant effects on the visual amenity of walkers on these routes during the construction and early operational phases as

a consequence of views of the Proposed Development, in particular, of the solar PV arrays through the perimeter fencing.

- 10.65 There would also be significant effects on the visual amenity of walkers on the two new permissive footpaths during the construction and early operational phases as a consequence of views of the Proposed Development, in particular, of the solar PV arrays through the perimeter fencing.
- 10.66 Once the proposed mitigation planting illustrated in SEI Figure 11.9 Revision B (**APP1.21**) has established, views of the solar arrays would be screened by hedgerows for the remainder of the operational phase and the decommissioning phase from a section of Footpath AE432 (along the northern boundary of the northern parcel), from Footpath AE457 (from VP 2 northwards to the Site boundary), and from a section of Footpath AE656 (between Church Lane and the existing field boundary that runs north/south between the western and central parcels).
- 10.67 During the remainder of the operational phase and the decommissioning phase there would still be views of the Proposed Development from Footpath AE432 and Footpath AE459 where these cross the northern and eastern parcels of the Site. However, as noted in paragraph 10.35 above, and illustrated in SEI Figure 11.9 Revision B, the two new permissive footpaths will provide alternative routes for walkers on Footpaths AE432 and AE459 and views from these two permissive footpaths will be progressively screened by the mitigation planting along these routes.
- 10.68 Therefore, significant effects on the visual amenity of walkers would be limited to those walking sections of Footpath AE432 and AE437 that cross the northern parcel, on Footpath AE656 (as far as the existing field boundary that runs north/south between the western and central parcels) and on Footpath AE459 (across the eastern parcel).

Development Scenario 1 - Conclusions

- 10.69 Therefore, in the context of the existing baseline which includes the existing development in the study area, the Proposed Development would result in some significant adverse effects on the character of the landscape within the Evegate Mixed Farmlands LCA and part of the East Stour Valley LCA and on the visual amenity of residents in Bested House and The Paddock (until the mitigation planting is established), visitors to the Aldington Races point-to-point (if this event were to be held in the future), walkers using PROWs on and around the Site and motorists and their passengers on Church Lane.

Cumulative Effects

- 10.70 RfR1 states that the Proposed Development would result in “*significant adverse ... cumulative effects on landscape and visual amenity that cannot be appropriately mitigated*” and states that “*The development would also harm the amenity and experience of users of the public rights of way network*”.

Development Scenario 2 (CLVIA) – Additional Effects of the Proposed Development in the Context of the Likely Future Landscape and Visual Baseline

- 10.71 The following three sections summarise the additional effects of the Proposed Development in the context of the likely future landscape and visual baseline (which includes all operational and permitted developments in the surrounding area). As shown on SEI Figures 1.1 and 11.3 Revision A (**APP1.14.4**), the permitted developments include:
- Pivot Power Battery Energy Storage Site (“**Sellindge BESS**”) – planning ref: PA/2022/2544 – this is a small battery energy storage scheme that was permitted in

August 2023 and will be located between the M20 and railway embankments, adjacent to the fishing lakes and near the northern parcel of the Site.

- Sellindge Grid Stability Facility ("**GSF**") also referred to as a Synchronous Condenser Plant ("**SCP**") with ancillary infrastructure, access, landscaping and other incidental works – planning ref: PA/2022/2950 – this was also permitted in August 2023 and will be located between the M20 and railway embankments, close to the Sellindge BESS site and the northern parcel of the Site.
- Otterpool Park Garden Town – planning ref: Y19/0257/FH – outline permission was granted in April 2023 and this will be an extensive new Garden Town located to the east of Viewpoint 5 and less than 1km east of the eastern parcel of the Site.

Cumulative Visual Analysis

- 10.72 The assessment of the cumulative effects of the Proposed Development on landscape character and visual amenity in the context of the likely future landscape and visual baseline is described in SEI Chapter 11 (**APP1.14.2**). It was informed by a visual analysis that included a theoretical visibility analysis, fieldwork observations and a viewpoint analysis.
- 10.73 The theoretical visibility analysis involved the generation of a 5km radius cumulative zone of theoretical visibility (CZTV) as shown on SEI Figure 11.25 (**APP1.14.4**). Due to the size and elevated location of the Otterpool Park Garden Town development, this has the most extensive zones of theoretical visibility, with the other three permitted developments having more intermittent visibility. This CZTV suggests that there would be locations where parts of the Proposed Development may be visible in conjunction with one or more of the permitted developments. However, the CZTV is based on bare terrain data, and does not take account of the screening effects of surface features such as vegetation and buildings. Consequently, the actual cumulative zones of visibility on the ground would be less extensive and more intermittent than suggested by the CZTV and there would be few locations where both the Proposed Development and one or more of the permitted schemes would be visible.
- 10.74 Two of the LVIA viewpoint locations (VPs 7 – 9) and a further five new viewpoints (VPs A – E) were selected to illustrate and assess the cumulative effects of the Proposed Development on the landscape character and visual amenity of the Site and surrounding area in the context of the permitted schemes in SEI Chapter 11. The locations of these viewpoints are illustrated on SEI Figures 11.1 – 11.8 Revision A (**APP1.14.4**).
- 10.75 The viewpoint analysis for development scenario 2 at these seven viewpoints is presented in Table 11.2 in SEI Chapter 11. For this development scenario, the three permitted schemes have already received planning permission and so must have been considered acceptable. It has been assumed that they will be built in due course and so would form part of the likely future landscape and visual baseline. The viewpoint analysis has then assessed the likely additional effects of the Proposed Development in the context of this likely future baseline. This analysis takes into account the operational phase of each development and does not take into account any mitigation planting that may be implemented as part of each permitted development.
- 10.76 From Viewpoint 7 (Footpath AE474) - the three permitted schemes would be screened by topography and/or intervening vegetation and so the additional effects of the Proposed Development on landscape character and visual amenity would be the same as assessed in the LVIA (and not significant).
- 10.77 From Viewpoint 9 (PROW AE299) - much of Otterpool Park would be visible in the distance, but the other two permitted developments would be screened by topography and/or

intervening vegetation. The Proposed Development would be a barely discernible feature and the additional effects of the Proposed Development on landscape character and visual amenity would be slightly less than in the context of the existing (less developed) baseline (and not significant).

- 10.78 From Viewpoint A (Footpath AE437) - the Sellindge GSF would be in the foreground, the Sellindge BESS and Otterpool Park would be screened and only an extremely limited portion of the northern parcel of the Proposed Development would be visible. Consequently, the additional effects on landscape character and visual amenity would not be significant.
- 10.79 From Viewpoint B (Footpath AE432) - Otterpool Park would be partially visible but the other two permitted developments would be screened by intervening vegetation. Parts of the northern and western parcels of the Proposed Development would be visible and the additional effects on landscape character would not be significant but the additional effects on visual amenity for walkers on Footpath AE432 near Park Wood Cottage would be borderline significant.
- 10.80 From Viewpoint C (Footpath AE474) - the three permitted schemes would be screened by intervening topography and vegetation and only a small part of the western parcel of the Proposed Development would be visible. Consequently, the additional effects on landscape character and visual amenity would not be significant.
- 10.81 From Viewpoints D (Roman Road) and E (Footpath AE381) - the three permitted schemes would be screened by intervening topography and vegetation and the Proposed Development would also be screened, hence there would be no effects on landscape character and visual amenity at these locations.

Cumulative Effects on Landscape Character

- 10.82 RfR1 states that the Proposed Development would result in “*significant adverse ... cumulative effects on landscape character ... that cannot be appropriately mitigated*”.
- 10.83 As discussed in SEI Chapter 11 (paragraphs 11.77 – 11.92, **APP1.14.2**), there would not be any significant additional effects on landscape character as a consequence of the Proposed Development in the context of the permitted developments, over and above the individual significant effects predicted for the Proposed Development in the LVIA. In particular:
- 10.83.1 Evegate Mixed Farmlands LCA – this LCA is strongly influenced by the infrastructure and development within and bordering it. The Sellindge BESS and Sellindge GSF will be located in this LCA and the introduction of the northern parcel of the Proposed Development into this LCA would further extend the areas of development within this LCA. However, these effects would be contained to within the M20 and railway embankments, would be similar in extent and degree to the effects predicted for the Proposed Development in the LVIA and the character of the landscape in the northern part of this LCA (north of the M20) will remain unaffected.
- 10.83.2 East Stour Valley LCA – this LCA is more rural in character with some development (eg pylons and HS1 railway line). None of the three permitted developments would be in this LCA and would be largely screened from all but the higher parts of this LCA. The introduction of the western, central and eastern parcels of the Proposed Development would add further development influences to the overall character of this LCA. However, these effects would be similar in extent and degree to the effects predicted for the Proposed Development in the LVIA.

- 10.83.3 Aldington Ridgeline LCA – this LCA is a relatively elevated landscape with views to the north forming part of the character of this LCA. None of the permitted developments would be in this LCA, the Sellindge BESS and Sellindge GSF would be screened in views and Otterpool Park would be largely screened in views from this LCA. Therefore, the effects on landscape character would be similar in extent and degree to the effects predicted for the Proposed Development in the LVIA.
- 10.83.4 Upper Stour Valley LCA - neither the permitted developments nor the Proposed Development would be located in this LCA and, as illustrated by Viewpoint E, would be screened in views from this LCA. Therefore, there would not be any cumulative effects on landscape character in this LCA.

Cumulative Effects on Visual Amenity

- 10.84 RfR1 states that the Proposed Development would result in “*significant adverse ... cumulative effects on ... visual amenity that cannot be appropriately mitigated*”.
- 10.85 As discussed in SEI Chapter 11 (paragraphs 11.96 – 11.92, **APP1.14.2**), there would not be any significant additional effects on visual amenity as a consequence of the Proposed Development in the context of the permitted developments, with the predicted effects being similar to the individual significant effects predicted for the Proposed Development in the LVIA, as the permitted developments and/or the Proposed Development would be screened or largely screened in views, as follows:
- 10.85.1 Settlements – the permitted developments will be screened by intervening topography and/or vegetation from Aldington.
- 10.85.2 Residential properties – the permitted developments will be screened or largely screened by intervening topography and/or vegetation from individual properties including Bested House, The Paddock, Forehead, Hogben Farm, Forehead Farm, Middle Park Farm, Lower Park Farm & adjacent properties, Evegate Manor, and Park Wood Cottage. Otterpool Park would be within approximately 250m of Harringe Court & nearby properties, but views of the Proposed Development would be largely screened by intervening topography and/or vegetation.
- 10.85.3 Visitor attractions – the permitted developments will be screened or largely screened by intervening topography and/or vegetation from Aldington Races point-to-point, Port Lympne Wildlife Park and Hatch Park deer park. The Sellindge BESS and Sellindge GSF developments would be visible to members accessing the fishing lakes immediately south of the northern parcel of the Site but views from the lakes themselves would be screened by the surrounding woodland.
- 10.85.4 Long distance recreational routes – there would be limited and distant views of Otterpool Park from Saxon Shore Way and the North Downs Way but the other permitted developments would be screened in views from these route by intervening topography and/or vegetation.
- 10.85.5 Local public rights of way – Viewpoints 7, A, B, C and E are all on local PROWs and these illustrate that one or more of the permitted developments and/or the Proposed Development would be screened from locations on the PROW network in the surrounding area. Generally, views of the permitted and Proposed Development would be from PROWs local to each site.
- 10.85.6 Public highways – there would be a view of the Sellindge GSF and Sellindge BESS

from a short section of Church Lane (between the M20 and HS1 embankments) and then views of the Proposed Development from a 1km section of Church Lane to the south of the HS1 embankment.

- 10.85.7 Rail routes – there would be sequential glimpsed views of the permitted schemes and Proposed Development for passengers on HS1 and local rail services but largely screened due to the degree of screening by intervening vegetation and the extremely short duration of the glimpsed views through vegetation in winter due to the speed of travel past the Site.

Development Scenario 2 - Conclusions

- 10.86 Therefore, in the context of the likely future baseline which includes the operational and permitted development, the Proposed Development would not result in significant adverse additional effects on landscape and visual amenity over and above the significant adverse individual effects that are predicted in the context of the existing baseline.

Development Scenario 3 (CLVIA) – Combined Effects of the Proposed Development and other Proposed Development in the Context of the Likely Future Landscape and Visual Baseline

- 10.87 The following three sections summarise the effects of the Proposed Development in combination with another proposed development, in the context of the likely future landscape and visual baseline (which includes all operational and permitted developments in the surrounding area). The other proposed development is:
- Stonestreet Green Solar – a large (>50MW) solar farm located to the west and north of the Proposed Development, in the Evegate Mixed Farmlands, East Stour Valley, Upper Stour Valley, Aldington Ridgeline and Aldington Ridge LCAs.
- 10.88 At the time of the SEI (January 2024) (**APP1.14**) Stonestreet Green Solar was a pre-application NSIP and a plan showing the Site Location and Preferred Order Limits (Doc ref: 142-01-01, EPL June 2023) was available, but not a site layout. Hence the consideration of combined cumulative effects in the SEI was informed by cumulative visualisations that assumed solar panels across all the fields within the preferred order limits.
- 10.89 An application by EPL 001 Ltd has since been submitted to the Planning Inspectorate (“**PINS**”) in June 2024 (PINS ref: EN010135) for a scheme to construct, operate, maintain and decommission solar PV arrays and energy storage exceeding 50MW, associated infrastructure and an underground cable connection to the existing National Grid Sellindge Substation, allowing the export and import of up to 99.9MW of electricity to the grid (see PINS NSIP website²).
- 10.90 PINS issued a notification of decision to accept the application for Examination on 9 July 2024 and appointed a single appointable person as the Examining Authority on 10 July 2024. In response to Section 51 advice issued by PINS, there have since been a number of post-submission changes, including updates to the LVIA text and LVIA and CLVIA plans and visualisations. According to the PINS NSIP website, a date for the Examination has not yet been set.
- 10.91 The NSIP application has been made using a “Rochdale Envelope” approach with the detailed design of the project to be confirmed following the grant of the Development Consent Order (“**DCO**”) (paragraphs 3.3.1 – 3.3.9, ES Volume 2 Chapter 3, EPL June 2024).

² <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010135>

However, a Site Plan and an illustrative layout (Doc ref: 2.6) and updated Work Plans (Doc ref: 2.3A, Dwg no: 142-02-44-KP, EPL July 2024) have been submitted which divide the site into numbered field areas and identify the fields in which the various elements of the scheme would be located. These indicate that most of the infrastructure, including all the solar PV arrays, would be located in fields 1 – 25 (to the west of Station Road), the substation would be in the northwest corner of field 26, and the remainder of field 26 plus fields 27 – 29 (between Station Road and the Site) would contain green infrastructure (described as landscaping, biodiversity and socio-economic enhancements in paragraph 3.5.1, ES Volume 2 Chapter 3, EPL June 2024).

10.92 The Order Limits shown on the Site Plan (Doc ref: 2.6) and Works Plans (Doc ref 2.3A, Dwg no: 142-02-44-KP, EPL July 2024) are similar to the Preferred Order Limits (Doc ref: 142-01-01, EPL June 2023) with two minor differences:

- Sellindge Converter Station (National Grid Substation) – only the eastern most quarter of this site is now included within the Order Limits.
- Access from Harringe Lane to the east of the Site as far west as the Sellindge Converter Station – this has been excluded from the Order Limits.

10.93 These two changes in the Order Limits and the confinement of the solar PV panels to fields 1 – 25 affect the following illustrations submitted for this appeal:

- SEI Volume 3 (**APP1.14.4**), Figure 1.1: Cumulative Developments – the green Stonestreet Green Solar boundary should include just the eastern most quarter of the Sellindge Converter Station and should exclude the green boundary that extends from the Sellindge Converter Station to Harringe Bridge and Harringe Lane.
- SEI Volume 3, Figure 11.26: Development Scenario 3 – the blue boundary showing the extent of the Stonestreet Green Solar Proposal should include just the eastern most quarter of the Sellindge Converter Station and should exclude the blue boundary that extends from the Sellindge Converter Station to Harringe Bridge and Harringe Lane. The extent of the zones of theoretical visibility for Stonestreet Green Solar (light blue) and both East Stour and Stonestreet would reduce slightly.
- SEI Volume 4 Visualisations (**APP1.14.5**) – the cyan tone that represents the extent of the Stonestreet Green Solar Proposal should be modified as follows:
 - Viewpoint 7 (Cumulative) left - Development Scenario 3 – the furthest right area of cyan should be excluded.
 - Viewpoint 9 (Cumulative) - Development Scenario 3 – the furthest left area of cyan should be excluded.
 - Viewpoint B (Cumulative) – Development Scenario 3 – all the area of cyan should be excluded.
 - Viewpoint C (Cumulative) - Development Scenario 3 – the furthest left area of cyan should be excluded.
 - Viewpoint D (Cumulative) – Development Scenario 3 – the small area of cyan in the distance to the left should be excluded.
- Taking into account the changes noted above, the cumulative plans and visualisations included in the SEI are sufficient for the purposes of considering the likely combined effects of the Proposed Development with the Stonestreet Green Solar proposal on

landscape and visual amenity.

- An assessment of the Proposed Development in conjunction with the proposed Stonestreet Green Solar proposal was presented in SEI Chapter 11, Section 5 (**APP1.14.2**). Stonestreet Green Solar is a much larger proposal and, as a consequence, the predicted combined effects of the two schemes on landscape character and visual amenity would, in most instances, be greater than the predicted individual effects of the Proposed Development. However, Stonestreet Green Solar is a proposal, not a permitted development, and these predicted combined effects would occur only if both the Proposed Development and the Stonestreet Green Solar proposal were to be permitted.

Cumulative Visual Analysis

- 10.94 The assessment of the combined effects of the Proposed Development on landscape character and visual amenity in combination with the Stonestreet Green Solar proposal is described in SEI Chapter 11 (**APP1.14.2**). It was informed by a visual analysis that included a theoretical visibility analysis, fieldwork observations and a viewpoint analysis.
- 10.95 The theoretical visibility analysis involved the generation of a 5km radius cumulative zone of theoretical visibility (CZTV) as shown on SEI Figure 11.26 (**APP1.14.4**). Due to the size of the Stonestreet Green Solar proposal, this has the most extensive zones of theoretical visibility. This CZTV suggests that there would be locations where parts of the Proposed Development may be visible in conjunction with the Stonestreet Green Solar proposal. However, the CZTV is based on bare terrain data, and does not take account of the screening effects of surface features such as vegetation and buildings. Consequently, the actual cumulative zones of visibility on the ground would be less extensive and more intermittent than suggested by the CZTV.
- 10.96 Two of the LVIA viewpoint locations (VPs 7 – 9) and a further five new viewpoints (VPs A – E) were selected to illustrate and assess the combined effects of the Proposed Development on the landscape character and visual amenity of the Site and surrounding area in conjunction with the Stonestreet Green Solar proposal in SEI Chapter 11. The locations of these viewpoints are illustrated on SEI Figures 11.1 – 11.8 Revision A (**APP1.14.4**).
- 10.97 The viewpoint analysis for development scenario 3 at these seven viewpoints is presented in Table 11.2 in SEI Chapter 11. It has assessed the likely combined effects of the Proposed Development in combination with the Stonestreet Green Solar proposal and has assumed that the two schemes would be constructed and operated over similar timescales. This viewpoint analysis takes into account the operational phase of each proposed development and does not take into account any mitigation planting that may be implemented as part of each permitted development.
- 10.98 From Viewpoint 7 (Footpath AE474) both proposed schemes would be partially visible and the combined effects on landscape character and visual amenity would be greater than the individual effects as assessed in the LVIA (and significant).
- 10.99 From Viewpoint 9 (PROW AE299) both proposed schemes would be partially visible and the combined effects on landscape character and visual amenity would be slightly greater than the individual effects as assessed in the LVIA (but not significant).
- 10.100 From Viewpoint A (Footpath AE437) – the Stonestreet Green Solar proposal would be screened and the combined effects on landscape character and visual amenity would not be significant.
- 10.101 From Viewpoint B (Footpath AE432) – when the analysis for this viewpoint was undertaken

for the SEI, it was assumed that fields 27 – 29 (between Station Road and the Site and in the middle distance of the view from Viewpoint B) would contain solar panels. However, according to the work plans now submitted with the NSIP application, these fields will now contain green infrastructure. Therefore, the effects at this viewpoint would be the same as predicted for development scenario 2, that is the effects on landscape character would not be significant but the additional effects on visual amenity for walkers on Footpath AE432 near Park Wood Cottage would be borderline significant.

- 10.102 From Viewpoint C (Footpath AE474) - both proposed schemes would be partially visible and the combined effects on landscape character and visual amenity would be slightly greater than the additional cumulative effects predicted for development scenario 2 (and borderline significant).
- 10.103 From Viewpoints D (Roman Road) and E (Footpath AE381), both proposed schemes would be screened by intervening topography and vegetation and there would be no effects on landscape character and visual amenity at these locations.
- 10.104 As noted in SEI Chapter 11 (paragraph 11.67, **APP1.14.2**), despite the proximity of the permitted and proposed schemes, the wealth of mature vegetation and the undulating topography combine to provide recurrent screening of these development proposals. Furthermore, each scheme is accompanied by a comprehensive set of mitigation planting proposals which would provide further progressive screening of each development over time.

Cumulative Effects on Landscape Character

- 10.105 RfR1 states that the Proposed Development would result in “*significant adverse ... cumulative effects on landscape character ... that cannot be appropriately mitigated*”. As explained above, the predicted cumulative effects on landscape character for development scenario 3 “could result” rather than “would result” as there is no certainty that either or both of the proposed developments would be permitted and built.
- 10.106 As discussed in SEI Chapter 11 (paragraphs 11.77 – 11.92), there would be significant combined effects on landscape character as a consequence of the Proposed Development in combination with the Stonestreet Green Solar proposal, over and above the additional significant effects predicted for development scenario 2. In particular:
 - 10.106.1 East Stour Valley LCA – this LCA is more rural in character with some development (e.g. pylons and HS1 railway line). Both of the proposed developments would be partly within this LCA and would add further development influences to the overall character of this LCA such that there would be significant adverse cumulative effects on landscape character on and around both sites.
 - 10.106.2 Aldington Ridgeline LCA – the Stonestreet Green Solar proposal would be located partially within this LCA. This is a relatively elevated landscape with views to the north forming part of the character of this LCA and parts of both proposals would also be in in views from this LCA, albeit largely screened by intervening vegetation (see Viewpoints 7 and C). Therefore, the cumulative effects on landscape character would be slightly greater in extent and degree to the individual effects predicted for the Proposed Development in the LVIA and the additional effects predicted in development scenario 2 (and significant).
 - 10.106.3 Upper Stour Valley LCA – the Stonestreet Green Solar proposal would be located partially within this LCA. However, this is a relatively low-lying landscape with views contained by an abundance of vegetation such that views of the Proposed

Development would be screened and views of the Stonestreet Green Solar proposal would be largely screened from locations beyond the site (see Viewpoint E). Therefore, there would be significant effects on landscape character on and around the Stonestreet Green Solar site but these would be individual effects arising from this proposal and not cumulative effects.

- 10.107 Further to the assessment in SEI Chapter 11 (paragraphs 11.77 – 11.92, **APP1.14.2**), with regards to the Evegate Mixed Farmlands LCA, the only part of the Stonestreet Green Solar proposal that would be in this LCA would be the substation upgrades within the existing Sellindge Converter Station and, now that fields 27 – 29 would no longer contain solar panels, it is unlikely that the Stonestreet Green Solar proposal would be visible from most of this LCA. Therefore, the effects on the character of this LCA would be similar in extent and degree to the effects predicted for the Proposed Development in the LVIA and in development scenario 2 and the character of the landscape in the northern part of this LCA would remain unaffected.

Cumulative Effects on Visual Amenity

- 10.108 RfR1 states that the Proposed Development would result in “*significant adverse ... cumulative effects on ... visual amenity that cannot be appropriately mitigated*”. As noted in relation to effects on landscape character in paragraph 10.105 above, the predicted cumulative effects on visual amenity for development scenario 3 “could result” rather than “would result” as there is no certainty that either or both of the proposed developments would be permitted and built.
- 10.109 As discussed in SEI Chapter 11 (paragraphs 11.96 – 11.92) (**APP1.14.2**), there would be significant combined effects on visual amenity as a consequence of the Proposed Development in combination with the proposed Stonestreet Green Solar proposal, with the predicted effects being slightly greater and more extensive than the individual significant effects predicted for the Proposed Development in the LVIA (development scenario 1) and the additional effects in development scenario 2, as a consequence of the Stonestreet Green Solar proposal, as follows:
- 10.109.1 Visitor attractions – parts of both schemes would be visible in views from Aldington Races point-to-point (if this event were to be held in the future).
- 10.109.2 Local PROW – generally, views of the two proposed developments would be from PROWs local to each site. However, there would be sequential views of both schemes for walkers following circular or linear routes through both sites which would result in significant combined effects on their visual amenity.
- 10.109.3 Public highways – generally, views of the two proposed developments would be from local roads close to each site. However, there could be sequential views of both schemes for motorists following several minor roads close to both sites which would result in significant combined effects on their visual amenity.
- 10.110 Due to screening by intervening topography and/or vegetation, there would not be significant combined effects on the visual amenity of residents in properties in the settlements and individual properties assessed in SEI Chapter 11 (paragraphs 11.105 – 11.119), visitors to the other visitor attractions in the study area, users of Saxon Shore Way and the North Downs Way and passengers on HS1 and local rail services on the rail route to the north of both sites.

Development Scenario 3 - Conclusions

- 10.111 Therefore, in the context of the likely future baseline which includes the existing and

permitted development, in combination with the proposed Stonestreet Green Solar proposal, the Proposed Development could result in some significant adverse combined effects on the character of the landscape within the East Stour Valley and Aldington Ridgeline LCAs and on the visual amenity of visitors to the Aldington Races point-to-point (if this event were to be held in the future), walkers following circular or linear routes on local PROWs through both sites and motorists following several minor roads close to both sites. These effects would be slightly greater and/or more extensive than the individual significant effects predicted for the Proposed Development in development scenario 1 and the additional effects in development scenario 2.

RfR1 – Policies – Landscape, Visual and Cumulative Issues

Ashford Borough Local Plan 2030, Adopted 2019 (APP3.1)

- 10.112 Policy ENV3a: Landscape Character and Design, sets out a series of landscape characteristics that development proposals within the borough must have regard to, which include landform and drainage patterns, trees and woodlands, field boundaries, the pattern and distribution of settlements, roads and footpaths, guidance in the Landscape Character SPD (**APP3.18**), and any features that are important and contribute to local landscape character. As discussed in paragraphs 11.101 – 11.102 in ES Chapter 11 (**APP1.8.2**), no trees or hedgerows would be removed, there would not be any changes to the pattern and distribution of settlements, roads and footpaths and no important landscape components would be affected by the Proposed Development. Furthermore, the proposed mitigation planting would reinforce and strengthen the existing landscape fabric and landscape components within the Site.

- 10.113 Policy ENV3b: Landscape Character and Design in the AONBs, refers, in addition to “*major development proposals within the AONBs*”, to “*all proposals within or affecting the setting of AONBs*” which would only be permitted under various circumstances. These include conserving and where appropriate enhancing or restoring the character of the landscape, enhancing the special qualities, distinctive character and tranquillity of the AONB, having regard to the relevant AONB management plan and any associated guidance, and demonstrating particular regard to those characteristics outlined in Policy 3a, proportionate to the high landscape significance of the AONB. In paragraph 9.39 of the preamble to Policies ENV 3a and 3b, the setting of the AONB is described as “*land adjacent to or within close proximity of the AONB boundary, which is visible from the AONBs and from which the AONBs can be seen. The setting may be wider in certain circumstances, for example when affected by features such as noise and light. In some cases the setting area will be compact and close to the AONB boundary, perhaps because of natural or human made barriers, or because of the nature of the proposed change*”.

- 10.114 The Proposed Development is not within the AONB and, at its closest point, is 1.3km north and 3.3km southwest of the AONB and so is not adjacent to or within close proximity to the AONB. There are a few locations within the AONB where there would be views towards the Proposed Development, such as VPs 8 and 13 which are 1.7km+ south of the development and VPs 9 – 12 which are 4.58 – 6.2km north, northeast and northwest of the Proposed Development. However, in these views, the Proposed Development would be partially screened, distant and a small part of the overall panorama from these elevated locations. Consequently, the Proposed Development would not affect any of the landscape characteristics outlined in Policy ENV3a within the AONB and would not affect the special qualities, distinctive character and tranquillity of the AONB. There has also been no objection to the Proposed Development from the Kent Downs AONB unit.

- 10.115 Policy ENV5: Protecting Important Rural Features, states that all development in rural areas shall protect and, where possible, enhance the following features, which include: d) public rights of way and e) landscape features that help to distinguish the character of the local

area.

- 10.116 With regards to footpaths, none of the public rights of way on the Site would be physically changed and, although there would be significant effects on the visual amenity of walkers on some sections of some of the footpaths, there would also be alternative permissive routes which could be taken if walkers preferred not to walk through the Site. All landscape features on the Site (such as mature hedgerows or trees) would be protected and most would be enhanced by the mitigation measures proposed. The distinctive outline of Bested Hill, which could be considered a landscape feature of the Site, would be covered for the duration of the Proposed Development but these effects would be reversed once the Proposed Development is decommissioned.
- 10.117 In relation to landscape resources, Policy ENV10 – Renewable and Low Carbon Energy, states that “*planning applications for proposals to generate energy from renewable and low carbon sources will be permitted provided that a) The development, either individually or cumulatively does not result in significant adverse impacts on the landscape, ..., having special regard to nationally recognised designations and their setting, such as AONBs, ...*”.
- 10.118 However, as discussed in paragraphs 10.10 - 10.11 and 10.53 of this Statement of Case, it would be impossible to site any commercial scale solar project in the UK without significantly affecting the character of at least the site it is located in and the immediate surroundings. Furthermore, as explained in paragraph 10.33 of this Statement of Case, “significant” effects are effects that have been deemed by the assessor to be material to the planning decision and significant adverse effects are not necessarily “unacceptable effects”.
- 10.119 Whilst much of the Site and surrounding area are currently in agricultural use, as illustrated in ES Figure 1.2 (**APP1.8.4**), the Site is located to the southwest of Sellindge Converter Station and an adjacent sewage works and to the west of the operational Sellindge Solar Farm. The HS1 and local railway lines run east/west on an embankment across the Site separating the northern development area from the rest of the Site, the M20 is also on embankment and forms the northern boundary of the Site, and the Site is also crossed by overhead electricity lines on wooden poles (33kV) and pylons (400kV) connecting to the Sellindge Converter Station. Therefore, both the Site and surrounding landscapes are already characterised to varying degrees by various types of transport and energy infrastructure. The Site also benefits from the existing screening effects of surrounding landform, vegetation and the embankments, plus the screening that will be created over time by the proposed mitigation planting. Consequently, significant effects on landscape character would be limited to the Site and immediate surroundings, with the extent of the effects beyond the footprint of the development diminishing as the mitigation planting matures.
- 10.120 Furthermore, as explained in paragraphs 11.97 - 11.104 in ES Chapter 11 (**APP1.8.2**) and in paras 10.113 - 10.114 above, there would be a limited number of distant views of the Proposed Development from within the Kent Downs AONB and the Proposed Development would not have any significant effects on the purpose, characteristics or setting of this designation.

*Emerging Aldington and Bonnington Neighbourhood Plan 2030 (**APP3.3**)*

- 10.121 Policy AB4 – Protection of Locally Significant Views, refers to long distance views from the ridgeline and main approaches to the villages that play a key role in the setting of settlements and identifies 13 locally significant views (as illustrated on Figures 8, 9 and 10 in the Neighbourhood Plan). Two of these significant views look northwards towards the Proposed Development:

- View 3 is on Footpath AE475 and looks northwards towards the Kent Downs AONB (in the distance). It is close to Viewpoint 7 (see FI Visualisation for Viewpoint 7 Revision A, **APP1.18.2**) on Footpath AE474 which is parallel with, and at a similar elevation to, View 3 on Footpath AE475. As illustrated in the visualisation for Viewpoint 7, the Proposed Development would be on lower ground in the middle distance, partially screened by intervening vegetation and would not obscure the views of the more elevated land within the Kent Downs AONB in the distance.
- View 5 is on the B2067 at the Roman Road/Knoll Hill junction at Postling Green. From here there is a view northwards across a rolling foreground to St Michael's Church at Aldington, with the more elevated land within the Kent Downs AONB in the distance. The Proposed Development would not be visible in this view.

10.122 Policy AB10 – Renewable and Community Energy. In relation to the requirements for commercial solar PV development within this policy:

- The harm to local landscape has been minimised, as all the existing landscape features will be protected and the effects on landscape character would be confined to the Site and immediate surroundings, with mitigation planting that would enhance the local landscape.
- The relevant landscape descriptions in the Ashford Landscape Character Study 2005 (**APP4.5**) (plus the 2009 study (**APP4.4**)) have been used to inform the landscape and visual impact assessment.
- The proposals would not have an overbearing visual impact on residential visual amenity.
- Existing natural screening (topography and vegetation) plus the planting of new native hedgerows and woodlands have been utilised, supplemented by the screening afforded by the M20 and railway embankments have all been utilised such that, where the Proposed Development would be within a view, only parts of one parcel would be visible.
- All existing rights of way within the Site would be retained, plus the two proposed permissive footpaths would enhance access by providing additional links within the PROW network.

Heritage

10.123 Reason for Refusal 1 states as follows:

*"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."* (emphasis added)

Designated Heritage Assets Potentially Affected

10.124 The first Reason for Refusal covers landscape, heritage and rights of way. The heritage aspect has been highlighted in the quote above. The Reason for Refusal states that the

Proposed Development would result in less than substantial harm to the setting of designated heritage assets but does not state which ones. In the absence of this key information within the Reasons for Refusal, the Appellant has had regard to the Officer's Report (**APP1.19**) and consultation responses of Historic England in order to respond to this Reason for Refusal. In Historic England's two consultation responses dated 5 September 2022 (**APP2.1.9**) and 11 March 2024 (**APP2.2.3**), the assets it raised commentary over are Church of St Martin (grade I NHLE 1071208), Court Lodge Farmhouse (grade II* NHLE 1071209) and Aldington Conservation Area.

- 10.125 The effect on the scheduled monument Barrow cemetery to the south-west of Barrowhill (NHLE 1475132) was also raised as a potential concern by Historic England in their 5 September 2022 consultation response, but following the submission of additional assessment work in the form of the January 2024 SEI (**APP1.14**), Historic England have stated that there will be very little impact on the significance of this monument in their 11 March 2024 consultation response.
- 10.126 Reason for Refusal 1 states that there will be less than substantial harm to the setting of the designated assets. This statement does not comply with section 16 of the NPPF (**APP3.4**) or Historic England's GPA3 The Setting of Heritage Assets (2017) (**APP5.1**). The test, as outlined in paragraph 200 of the NPPF, is the effect of proposed development on the significance of a designated heritage asset, not the effect on the setting of a heritage asset. Harm in all cases, means 'harm to the significance of a heritage asset'. Where the setting of a heritage asset contributes to its significance, change in that setting may harm the significance of the heritage asset. Policy and law does not recognise separate concepts such as 'harm to the setting' or 'harm to the significance of a setting'. Therefore, for the purposes of this Statement of Case, the Appellant will respond to this Reason for Refusal as though it states that the Proposed Development has the potential to have a less than substantial harmful effect on the significance of the designated assets listed above, not their setting.

Policy and Case Law Relating to Heritage Harm

- 10.127 Paragraph 205 of the NPPF (**APP3.4**) outlines that when considering the potential impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and that the more important the asset, the greater the weight should be. This is irrespective as to whether the harm to the significance of the asset is substantial or less than substantial.
- 10.128 As in this case it is not alleged that there will be substantial harm to the significance of any designated heritage assets, the paragraphs relating to this in the NPPF will not be a consideration.
- 10.129 Where the harm to a designated heritage asset's significance is less than substantial, Paragraph 208 states:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

Setting

- 10.130 Paragraph 013 (Reference ID: 18a-013-20190723) of the 'Historic environment' section of the PPG (**APP3.5**) outlines that although the extent and importance of setting is often expressed in visual terms, it can also be influenced by other factors such as noise, dust and vibration. Historic relationships between places can also be an important factor stressing

ties between places that may have limited or no intervisibility with each other. This may be historic as well as aesthetic connections that contribute or enhance the significance of one or more of the heritage assets.

10.131 Paragraph 013 concludes:

"The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance."

When assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its on-going conservation."

Levels of Heritage Harm

10.132 There are three levels of heritage harm. These are substantial, less than substantial harm and no harm/negligible.

Substantial Harm

10.133 A key aspect of NPPF paragraphs 206-208 is whether a proposed development will result in substantial harm or less than substantial harm to a designated asset. However, substantial harm is not defined in the NPPF. Paragraph 017 (Reference ID: 18a-017-20190723) of the 'Historic environment' section of the PPG provides additional guidance on substantial harm. It states:

"What matters in assessing whether a proposal might cause harm is the impact on the significance of the heritage asset. As the National Planning Policy Framework makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting."

Proposed development affecting a heritage asset may have no impact on its significance or may enhance its significance and therefore cause no harm to the heritage asset. Where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) in order to identify which policies in the National Planning Policy Framework (paragraphs 194-196) apply.

Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.

*Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, **an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed.** The harm may arise from works to the asset or from development within its setting.*

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than

substantial harm or conceivably not harmful at all, for example, when removing later additions to historic buildings where those additions are inappropriate and harm the buildings' significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting." (emphasis added)

Less Than Substantial Harm

- 10.134 Paragraph 208 of the NPPF (**APP3.4**) outlines that where a proposed development results in less than substantial harm to the significance of a designated heritage asset, the harm arising should be weighed against the public benefits accruing from the proposed development. Paragraph 020 of the 'Historic environment' section of the PPG (Reference ID: 18a-020-20190723) outlines what is meant by public benefits:

*"Public benefits may follow from many developments and **could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework** (paragraph 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, **benefits do not always have to be visible or accessible to the public in order to be genuine public benefits**, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit."* (emphasis added)

No/Negligible Harm

- 10.135 No harm occurs where a proposed development will have no direct physical effects on heritage assets and/or where a proposed development is outside of the setting of a designated heritage asset. In such instances, there will be no adverse effects on the significance of designated heritage assets.
- 10.136 Where a proposed development is located within the setting of a designated heritage asset, it potentially can reduce the contribution that the setting makes to the significance of a designated heritage asset(s). However, change (for example visual change) within an asset's setting is not necessarily in itself an impact on the significance of a designated heritage asset. An adverse impact will only occur if the change from a proposed development affects the contribution made by setting to overall significance of an asset. Development within the setting of a designated heritage asset can be a perceivable/appreciable change but one that does not affect the contribution that the setting makes to the significance of the asset or assets. In such a scenario, this effect can be described as having a negligible effect, which in NPPF terms is an effect below less than substantial harm.
- 10.137 The NPPF (**APP3.4**) and case law³ has established the following key considerations when dealing with the effect of development within the setting of designated heritage assets.
- 10.137.1 All heritage assets have a setting, and that setting may contribute to the significance of the asset.
- 10.137.2 Change in the setting of a heritage asset may affect that contribution.
- 10.137.3 Change (for example visual change) is not in itself an impact on the significance of a heritage asset. An impact will only occur if the change affects the

³ A full suite of the relevant case law can be provided if required.

contribution made by setting to overall significance.

- 10.137.4 The correct basis for an assessment is therefore an analysis of the significance of the heritage asset, including the contribution made by setting and the impact caused to that significance.
- 10.137.5 In cases where only setting is affected, only the portion of significance derived from setting can be affected.
- 10.137.6 It cannot be assumed that visual change constitutes an adverse impact or that more visual change will be a greater impact. So, proximity to and intervisibility are not useful criteria on their own for the assessment of impact magnitude. What must be understood is how this visual change affects the contribution to significance made by setting before a conclusion can be reached about the magnitude of any impact.
- 10.137.7 It cannot be assumed that a more important asset (typically a high-grade designated asset) will experience a greater magnitude of impact. What matters is the extent to which its significance derives from setting and this is unrelated to the importance of the asset. In most cases, the majority of significance ascribed to a heritage asset lies in its form and fabric and this will be unaffected by change in the setting.
- 10.137.8 Harm in all cases, means 'harm to the significance of a heritage asset'. Where the setting of a heritage asset contributes to its significance, change in that setting may harm the significance of the heritage asset. Policy and law do not recognise separate concepts such as 'harm to the setting' or 'harm to the significance of a setting'.
- 10.137.9 For the purposes of paragraphs 206 and 207 of the NPPF, "substantial harm" means an impact which would have such a serious impact on the significance of the asset that its significance was either removed or very much reduced. Paragraph 26 of *Bedford Borough Council v Secretary of State for Communities and Local Government & Nuon UK Ltd* ([2013] EWHC 2847 (Admin)) (**APP8.1**) is of relevance in this respect:

*"In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have **such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.**" (emphasis added)*

- 10.137.10 Where there is harm on a designated heritage asset's significance from a proposed development, the decision maker should put great weight on the asset's conservation and the more important the asset, the greater that weight should be. As per *The Forge Field Society and others v Sevenoaks District Council* [2014] EWHC 1895 (Admin) (**APP8.2**), this is irrespective of whether potential harm amounts to substantial harm total loss or less than substantial harm to its significance.
- 10.137.11 The degree of harm is relevant to the balance of harms against benefits; *R (James Hall and Company Ltd) v City of Bradford MDC* [2019] EWHC 2899 (Admin) (**APP8.3**). This case addressed the three categories of heritage harm (i.e. no harm, less than substantial harm and substantial harm). Paragraph 34 states:

"In my judgment the three categories of harm recognised in the NPPF are

*clear. There is substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm. It will be a matter of planning judgement as to the point at which a particular degree of harm moves from substantial to less than substantial, but **it is equally the case that there will be a number of types of harm that will fall into less than substantial, including harm which might otherwise be described as very much less than substantial.** There is no intermediate bracket at the bottom end of the less than substantial category of harm for something which is limited, or even negligible, but nevertheless has a harmful impact. **The fact that the harm may be limited or negligible will plainly go to the weight to be given to it as recognised in Paragraph 193 NPPF.** However, in my judgment, minimal harm must fall to be considered within the category of less than substantial harm.” (emphasis added)*

Historic England Consultation Responses

- 10.138 Historic England provided their comments on the planning application in a letter to Ashford Borough Council dated 5 September 2022 (**APP2.1.9**). This letter identified that the Church of St Martin, Court Lodge Farm and Barrowhill barrow cemetery scheduled monument could potentially be affected by the Proposed Development. Historic England considered that additional visual information in order to assess the potential effect of the proposed scheme was required. They requested an additional view to be taken in the area of Viewpoint 8 and Viewpoint 7 and additional visualisations from Barrowhills.
- 10.139 This additional material was produced subsequent to receipt of Historic England’s letter and submitted as part of the SEI in January 2024 (**APP1.14**).
- 10.140 Following receipt of the SEI, Historic England provided a second consultation response dated 11 March 2024 (**APP2.2.3**). In summary, this concluded that they considered that there would be less than substantial harm to the Church of St Martin and Court Lodge Farmhouse but considered that there was not enough information to advise on the level of less than substantial harm. This was because Historic England considered that a verified rendered view for Viewpoint 8 had not been provided. However, this is not correct and will be addressed below. Historic England appears to have not understood the additional visualisations provided. A verified rendered view was indeed provided for Viewpoint 8. Historic England also requested an additional viewpoint be provided to the northeast of viewpoint 8. This was provided in the SEI.
- 10.141 Historic England confirmed (**APP2.2.3**) that following provision of the additional verified rendered views from Barrowhill scheduled monument, there would be ‘very little’ impact on the significance of the scheduled monument.

The Council’s Officer’s Report

- 10.142 The Officer’s report (**APP1.19**) sets out the legislative and policy in relation to setting and the impacts on the significance of designated assets from development within the setting of such assets and summarises the conclusions of the ES and its supporting technical appendices and Historic England’s position.
- 10.143 Paragraph 131 has an implicit criticism of the historic environment desk based assessment that Orion Heritage undertook (**APP1.8.3**), stating that as it was desk-based, the evidence presented was limited in relation to the extent of the understanding of the church, Court Lodge Farm and Aldington Conservation Area and the historic landscape. This implication that Orion Heritage’s assessment was only desk-based is incorrect. The assessment was

informed by detailed and robust research and multiple site visits. It was not just a desk-based exercise. The use of the term 'desk-based assessment' comes from the CIfA Standards and Guidance for Historic Environment Desk Based Assessments (2020) (**APP5.2**) which is the accepted standard for assessments such as Orion Heritage undertook for the Proposed Development.

- 10.144 Paragraph 131 also criticises the report by stating that there was little assessment of the historic landscape and setting. This is also incorrect. A detailed and robust assessment of this was undertaken and presented in paragraphs 5.8 – 5.17 of the report submitted with the planning application. It should be noted that Historic England did not criticise Orion Heritage's assessment of the significance and setting of the assets in question. Their concerns related to the verified rendered views, not the methodology of the assessment and understanding of the significance of the designated assets and how their setting contributes to their significance.
- 10.145 Paragraph 136 of the Officer's report agreed with Historic England's conclusion that there would be less than substantial harm to the Church of St Martin and Court Lodge Farmhouse. This is also in accordance with Orion Heritage's assessment of the effect on the significance of the two assets. The Officer stated that they did not agree with Orion Heritage's assessment that the harm would be at the lowest of the less than substantial harm range. They consider the harm to be at the higher end of the less than substantial harmful range. While the Officer is entitled to come to their own conclusions on this matter, their conclusion that the harm is at the higher end of the spectrum is not based on any advice that they have been provided by Historic England, or indeed any other statutory consultee. It is therefore unclear as to how the Officer reached this view in the absence of any evidence from heritage experts as to this level of harm arising as a result of the Proposed Development. It should be noted in respect to the Officer Report's conclusion on this matter, that the Case Officer is a planner, not a qualified and experienced heritage expert.
- 10.146 As outlined above in paragraph 10.137.9, substantial harm is a very high test and is the point at which the special interest of the asset in question has been either vitiated altogether or very much reduced. Consequently, an effect at the higher end of the less than substantial harm range is one that would be close to an effect that would either vitiate altogether or very much reduce the significance of the assets. As outlined in the Orion Heritage assessment, the effect of the Proposed Development is far away from such a drastic effect on the significance.
- 10.147 The Appellant's heritage expert witness is a highly qualified and acknowledged expert in heritage and has 25+ years of experience dealing with the heritage significance and designated heritage assets and the assessment of the level of harm that proposed development may have on the significance of such assets. This extensive experience has involved all types of proposed development and designated heritage assets at both planning application assessments and also at appeal. The issue of the calibration of the level of harm is a key issue in this assessment work

Impact on Church of St Martin and Court Lodge Farmhouse

- 10.148 The assessment of the significance of Church of St Martin (grade I), Court Lodge Farmhouse (grade II*) and Aldington Conservation Area and how their nested overlapping settings contribute to significance is presented in section 5.0 of Orion Heritage's historic environment desk-based assessment submitted with the planning application (**APP1.8.3**). Historic England did not criticise the methodology or conclusions of the assessment of the significance and setting of the assets. In summary, the report concluded that the Site, as it is currently, forms part of the setting of these three designated heritage assets and that its contribution to the significance of the church was neutral.

Effects From Within the Site

- 10.149 The Church of St Martin overlooks the wider surrounding countryside from an elevated position and its setting is formed by its immediate surroundings in the form of the churchyard and Court Lodge with its associated structures, as well as the wider agricultural/rural landscape surrounding the church, with its environs designated as the Church Area Conservation Area. There are some views toward the church from within the Site. These are incidental views and are not designed views. It is considered that due to topography and sparse development in the area, this visual relationship means that these views have a positive contribution to the significance of the church, as it allows for an appreciation of the church from a distance. Once constructed, the proposed solar farm would mean that these views of the church tower will still be possible but will be seen in the context of the solar farm. Due to this change, the contribution that this view makes to the significance of the church will be reduced, but not removed entirely. This is a very minor adverse effect on the significance of the church.
- 10.150 There is no intervisibility between Court Lodge Farm and the Site. There is a historic ownership link between Court Lodge Farmhouse and the southern area of the Site, which has been severed for the last 70 years and so this has only a very limited contribution to the house's significance. The Site also forms part of the wider countryside within which the farmhouse is located. The Proposed Development does not require the field boundaries to be removed and so consequently the legibility of historic field parcels would remain unchanged, leaving the illustrative historic value to Court Lodge Farmhouse unaffected. Due to the limited contribution that the Site makes to the significance of Court Lodge, the change in part of the building's wider setting would only have a very limited adverse effect on Court Lodge Farm's significance.

Effects on Views from and Toward Church of St Martin and Court Lodge Farmhouse

- 10.151 The primary issue of concern that Historic England has in relation to the church, Court Lodge Farm and Aldington Conservation Area, is views toward the assets from the southeast and west. The relevant viewpoints are 6, 7 and 8 of the ES (**APP1.8.5**) and viewpoints 7 and 16 of the SEI (**APP1.14.5**).
- 10.152 There are no views of the Proposed Development from the church, Court Lodge Farm or Aldington Conservation Area. The experience of the designated assets from within the area where their significance is best appreciated and the contribution to significance that their immediate setting has is strongest, will be unaltered by the Proposed Development.
- 10.153 It is in relation to the co-visibility, primarily of the church, from other viewpoints toward the church and Court Lodge Farm that the Proposed Development has the greatest potential to have an effect of the significance of the assets. As outlined in paragraph 10.138, Historic England requested further visualisations in relation to the areas around the Aldington assets, Viewpoints 7 and 8 in particular, and the area to what Historic England described as the liturgical east of the church.
- 10.154 These viewpoints will be addressed in turn starting with Viewpoint 8 as this is the viewpoint that the Officer's report focusses on in paragraph 133 (**APP1.19**). This paragraph states:
- "HE's assessment of impact relates primarily to the impact of the development on the Church of St Martin and particularly in northerly views from the Roman Road where the wireline drawing from viewpoint 8 demonstrates there is the potential for panels to be experienced on either side of the church tower."*
- 10.155 Viewpoint 8 is located on the Roman Road to the south of church. The baseline photograph shows the church tower as the most prominent thing in the view located in an area of tall

mature trees with Parsonage Farm (grade II) to its left-hand side. The Downs form a distant backdrop about halfway up the church tower. In this view, the church's position overlooking the Stour valley is very evident, as its relationship to Court Lodge Farm and the other buildings in the conservation area. There is some modern infrastructure visible (electricity line) but this does not detract from the appreciation of the church and Court Lodge Farm. The wireframe drawing shows that, in theory, the Proposed Development will be seen below and to the east and west of the church. The photomontage at completion demonstrates that the larger western area of the Proposed Development will be blocked from view by the trees within which the church and Court Lodge Farm are located. A small area of the Proposed Development will be visible in the distance to the right of the trees that the church is located in. The development is largely screened from view by the trees and topography. The small area of panels that can be seen is clearly in the distance, visually recessive, occupying c.5% of the view, visually separated by the tree belt to the south and east of the church and also 'below' the bottom of the church.

- 10.156 Far from the description of the panels in Historic England's 11 March 2024 letter being experienced 'either side' of the church tower, at the most, one small area of panels will be possible to be experienced in the far distance and separated from the church both laterally and vertically. There will be no panels visible to the left (i.e. west) of the church. Consequently, far from the church having panels 'either side of it' there will be a very small magnitude of change in the distance in a very limited aspect of this view. The effect of the Proposed Development in this view is a very minor adverse effect on the contribution that the setting makes to the Church of St Martin.
- 10.157 Historic England also requested an additional viewpoint to the 'liturgical east' of the Church of St Martin. Viewpoint 16 (**APP1.14.5**) was produced to address this. Due to access having to be on parts of the area that are publicly available, this location is not absolutely east of the church but is close as it was possible to get to a location 'liturgical east' of the church. The location was also selected as the spot where the Proposed Development will be the most visible. Consequently, Viewpoint 16 is the worst case scenario location.
- 10.158 Views toward the church and Court Lodge Farm (the building to the right of the church) from this location will have no panels within it due to topography (see SEI Viewpoint 16 (left) (**APP1.14.5**)). The view to the right from this location has Grove Cottage (grade II) on the left-hand side of the photograph and a line of trees crossing in the middle ground, behind which heavily filtered views west along the Stour valley are possible. The wireframe drawing indicates that theoretically two blocks of the solar panels can be seen at an oblique angle in the distance. In reality, as the photomontage at completion demonstrates, a small area of the right-hand block of panels is just possible to discern in amongst the trees' branches in the far distance. This area of the Proposed Development is hard to discern with any clarity at all in this view. Viewpoint 16 was taken in winter and so in summer, it will not be possible to experience the panels at all. Due to the lateral visual separation from the church and Court Lodge Farm and the barely discernible nature of the Proposed Development, there will be no adverse effect on either designated heritage asset or Grove Cottage from this location or nearby.
- 10.159 Viewpoint 6 (**APP1.8.5**) is taken from a location to the west of Grove Cottage. In this view, the church and Court Lodge Farm would be to the rear (south) and higher than the observer. That is, when looking in the direction of the Proposed Development, the church and the other listed buildings within the conservation area will be behind the observer. In this view, the photomontage demonstrates that two blocks of solar panels will be visible in the distance lower down the valley. The completion at 10-year photomontage shows that the planting along the southern edge of the eastern (right) block will heavily filter the views of the panels. Although the panels will be visible in this view, as none of the designated assets are also experienced in this view, this change will not have an adverse effect on the

significance of any of the designated assets in the conservation area.

- 10.160 Viewpoint 7 (**APP1.8.5**) is to the west of the Church of St Martin. Historic England in their 2022 consultation response requested for additional verified rendered views from this location as they considered the ones submitted with the application did not address how the church tower dominates the view and the experience of an observer as they travel east toward the village. These additional visualisations were provided in the SEI submission.
- 10.161 Viewpoint 7 is a large panoramic landscape view. There are long distance views along the footpath to the east and west and also to the north across the Stour valley to the Downs in the distance. These views, which include the church tower to the east, have a positive contribution to the significance of the church as it is both very visible and enables an observer to experience the church as a key spiritual and religious focus overlooking the Stour valley. An observer can appreciate how the church was built to be seen across long distances within the Stour valley. The view includes a palimpsest of types of land use and includes the pylons and cables orientated north east south west crossing over the footpath in between the church and the majority of the view.
- 10.162 As both the original ES and SEI verified rendered views demonstrate, there will be two blocks of the Proposed Development visible in the distance to the north in this view. The photomontage after 10 years demonstrates that the planting around the eastern (right) block will heavily filter the panels making them hard to discern clearly. At completion the panels will be a noticeable new feature within this view. The Proposed Development will not dominate the view but it will be easily visible in the middle distance on the lower ground of the valley. It will not be in the same plane of vision as the church. There will be a large degree of separation between the church and the eastern block of the Proposed Development. The church is on much higher ground and there is a tall pylon and associated cables between the church and the eastern block of the Proposed Development. The Proposed Development will be modern change in this view which may have a slight detracting effect from the church tower, but this is a slight effect as the church will still be experienced unencumbered by the development as it is currently. However, this change is considered to have a minor adverse effect on the contribution that the setting makes to the church.

Barrowhill Barrow Cemetery (scheduled monument)

- 10.163 Viewpoint 14 of the SEI (**APP1.14.5**) demonstrates that the Proposed Development will not be seen from the scheduled monument. The Proposed Development is also at a relatively considerable distance away from the monument. Consequently, as the Proposed Development will not be experienced from the monument, it will have no effect on its significance.

Conclusions

- 10.164 As outlined above, the Proposed Development will have a minor adverse effect on the contribution that aspects of the setting provide to the Church of St Martin and Court Lodge Farm. The majority of the setting of the designated assets will be unaffected by the Proposed Development. The primary aspects of the significance of the assets (i.e. the architectural and historical interest of their form and fabric) will be unaffected. Due to the very limited visual effect, the significance of the asset will be no more than minor (viewpoint 7 is the 'worst' effect). This is considered to be a less than substantial harmful impact on the significance of the Church of St Martin and Court Lodge Farm. This effect is on the lowest end of the less than substantial harmful scale as the significance of the designated assets is almost entirely unaffected.
- 10.165 Unlike paragraph 136 of the Officer's report (**APP1.19**), the effect cannot be on the higher

end of the less than substantial harm scale. To be at that level, the visual effects of the scheme would have to be far greater than they have been demonstrated to be and the Proposed Development would have to be closer to the assets so as to be overbearing and dominating the experience of the assets to the point that the significance was significantly reduced. The calibration of harm used by the case officer is considered to be too high and does not accord with Historic England's assessment of harm. Their issue was that they considered that not enough information had been provided to assess the precise level of harm. However, as discussed above, Historic England have not read the verified rendered photomontage at Viewpoint 8 correctly or apparently taken Viewpoint 16 into account. The reality is that the effect of the Proposed Development is slight. The information available before Historic England is considered to be sufficient to enable the assessment of where on the less than substantial harm range the effect is. In the Appellant's heritage witness' extensive experience, with similar material before it, Historic England has been confident in stating where it considers that the harm would be on the higher end of the less than substantial harm range scale.

- 10.166 As the effect of the Proposed Development is less than substantial, paragraph 208 of the NPPF applies. That is, the Inspector, having given great weight to the conservation of the designated assets significance, will have to balance the limited less than substantial harmful effect of the scheme against the public benefits of the scheme. Of relevance in this consideration is paragraph 34 of *R (James Hall and Company Ltd) v City of Bradford MDC* [2019] EWHC 2899 (Admin) (**APP8.3**), where the judge stated:

*"In my judgment the three categories of harm recognised in the NPPF are clear. There is substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm. It will be a matter of planning judgement as to the point at which a particular degree of harm moves from substantial to less than substantial, but **it is equally the case that there will be a number of types of harm that will fall into less than substantial, including harm which might otherwise be described as very much less than substantial.** There is no intermediate bracket at the bottom end of the less than substantial category of harm for something which is limited, or even negligible, but nevertheless has a harmful impact. **The fact that the harm may be limited or negligible will plainly go to the weight to be given to it as recognised in Paragraph 193 NPPF.** However, in my judgment, minimal harm must fall to be considered within the category of less than substantial harm."* (emphasis added)

- 10.167 The level of less than substantial harm in this case falls within what the judge described as very much less than substantial.
- 10.168 It has therefore been established that there would be limited less than substantial harm to the significance of the Church of St Martin and Court Lodge Farm. As such and in line with paragraph 208 of NPPF (**APP3.4**), the decision maker will need to balance the limited less than substantial harmful effect of the scheme against the public benefits of the scheme. The extensive benefits that would be delivered are outlined in detail in Section 12 of this statement.

Archaeology

- 10.169 Reason for Refusal 2 states:

"By reason of the insufficient information provided regarding the potential impacts of the development on the significance of heritage assets with archaeological interest, the development would be contrary to policy ENV15 of the Ashford Local Plan 2030,

policy AB11 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework."

- 10.170 This Reason for Refusal relates to the supposed lack of the provision of information on the archaeological aspects of the Proposed Development. This Reason for Refusal is considered to be factually incorrect.
- 10.171 The planning application was submitted with a detailed Historic Environment Desk Based Assessment ("HEDBA") produced by Orion Heritage dated February 2022 (**APP1.8.3**). This assessment was undertaken in accordance with the CIfA Standards and Guidance for Historic Environment Desk Based Assessments (2020) (**APP5.2**). It included as Appendix 1, a geophysical survey of the red line area of the planning application which was undertaken by Orion Heritage's appointed sub-contractor, Magnitude Surveys, in accordance with the CIfA Standards and Guidance for Geophysical Survey (2020) (**APP6.1**). The results of the geophysical survey resulted in an area of the Site being excluded from having solar panels due to the nature of the archaeological remains in part of the red line area of the site adjacent to Area 2 so as to ensure that these remains were preserved in-situ.
- 10.172 The Kent County Council's consultation response dated 30 August 2022 (**APP2.1.13**) stated that they considered that an archaeological evaluation was required to 'ground truth' the geophysical survey. Following receipt of this consultation response, archaeological evaluation trenching of the Site was undertaken by Orion Heritage's contractor Pre-Construct Archaeology in accordance with a Written Scheme of Investigation ("WSI") approved by Kent County Council on behalf of Ashford Borough Council. The evaluation was undertaken between 1 February and 31 March 2023 comprising the excavation of 117 30m x 2m trenches across all the proposed developable areas of the Site targeting geophysical survey anomalies recorded in the 2020 geophysical survey and the 'blank' areas of the Site. The Kent County Council archaeology department visited the Site once during the evaluation works. The evaluation report was submitted as part of the SEI (**APP1.14.3**). Following submission of the archaeological evaluation work, no further consultation response was received from the Kent County Council archaeology team. The Council's Case Officer appears to have relied upon the August 2022 consultation response which pre-dates this information and therefore did not have regard to the additional archaeological evaluation work undertaken in agreement with Kent County Council.
- 10.173 The evaluation has established that archaeological features were present in 43 of the trenches. Remains recorded include two possible Neolithic pits in Area 5; Mid/Late Bronze Age features in Area 5; a late Bronze Age/early Iron Age ditch and pit in Area and indications of contemporary activity in Area 5; focuses of Late Iron Age-early Romano British settlement activity in Areas 2 and 6 and Romano British activity in Areas 1 and 5 including two sunken feature buildings in Area 2. These findings are broadly in-keeping with the results of the geophysical survey (**APP1.8.3**) and HEDBA (**APP1.8.3**). The remains identified are all considered to be of local to regional significance and are not design constraints.
- 10.174 The combination of the HEDBA, geophysical survey (**APP1.8.3**) and evaluation trenching (**APP1.14.3**) provide a level of information that complies with paragraph 200 of the NPPF (**APP3.4**). That is, the surveys are of sufficient detail that is proportionate to the identified non-designated heritage assets' importance and is more than sufficient to understand the potential impact of the Proposed Development on these archaeological remains.
- 10.175 The impact of the Proposed Development on the non-designated archaeological remains recorded within the Site will be minimal. As outlined in section 6.3 and 6.4 of the HEDBA submitted with the planning application, the proposed solar panels would be mounted on small piled foundations driven to the ground. On average the piled foundations for the

solar arrays would be driven approximately 1.5m into the ground and each pile would measure no more than 0.01m² in area. The foundations for the buildings to house welfare, store and substation are minimal (technical information is provided separately in the technical drawing pack submitted with the planning application). No large-scale ground reduction or landscaping is planned for the Proposed Development.

- 10.176 A programme of archaeological mitigation works is proposed which can be secured by condition in the event that the appeal is upheld. The scope of this work will be agreed with Kent County Council and will be implemented ahead of construction commencing in accordance with a WSI that will be agreed with Kent County Council. A draft planning condition has been prepared on this basis, which is provided at **Appendix 6** of this Statement of Case.
- 10.177 It is therefore considered that the proposals fully comply with the requirements of Policy ENV15 of the Ashford Local Plan (**APP3.1**), emerging policy AB11 of the Aldington and Bonnington Neighbourhood Plan (**APP3.3**) and the requirements of the NPPF (**APP3.4**).

Traffic and Transport

- 10.178 The third Reason for Refusal states that insufficient information has been provided by the Appellant in relation to the management of construction vehicles during the construction phase of the development and that such prevents demonstration that the Proposed Development would have an acceptable impact on highway safety, and that the residual cumulative impacts on the road network would not be severe.
- 10.179 The Officer's Report (**APP1.19**) states that the SEI was produced on this topic "in response to requests for further information from the Highways Authority", which the Highways Authority (Kent County Council) then subsequently advised did not address its concerns. That is not factually correct. The first consultation response from the Highways Authority which the Appellant received sight of was dated 21 February 2024, which was submitted in response to the SEI and included content from an earlier consultation response of 26 August 2023. Such earlier response was never provided to the Appellant by the Council and nor was this made available on the Council's planning portal.
- 10.180 On the basis that the Appellant had never seen any response to the original application submission by the Highways Authority, the SEI was prepared purely to provide a cumulative update on this topic, as there was no commentary to address at that time. It was not therefore possible for the SEI to have addressed the Highways Authority's commentary.
- 10.181 As indicated above, a consultation response from the Highways Authority dated 21 February 2024 (**APP2.2.8**) was provided in response to the SEI, which raised concerns in relation to HGV delivery routeing, the need for banksmen and the need for signage.
- 10.182 Once in receipt of this consultation response, the Appellant made numerous requests to the Highways Authority to discuss the contents so as to agree a suitable way forward. The Highways Authority did not engage with any of the Appellant's requests.
- 10.183 The Appellant therefore made a number of requests to the Council with a view to resolving the Highways Authority's concerns prior to determination of the application. The Council also failed to engage with the Appellant's requests in this regard and determination was made in the absence of any discussions with the Appellant. This Statement of Case therefore considers each of the Highways Authority's concerns in turn below.

Vehicle Routeing

- 10.184 The Highways Authority raised the following within its consultation response in relation to

vehicle routing:

"1. Within the provided Construction Management Plan, much is detailed regarding on site routing and methodology but not as much forethought seems to have been applied to the public highway. The CMP routing details HGV deliveries direct to all site locations. This would actually involve going under two bridges with height restrictions (3.8m) which would not allow passage of such vehicles. Clearly this is unacceptable, and the delivery strategy needs to be revised.

2. The construction of the existing nearby solar project used a compound area north of the railway as a staging compound to unload from large delivery vehicles and transfer onto smaller vehicles which would fit under the railway bridges. I would suggest similar is explored for this proposal."

- 10.185 It is not correct that routing has not been considered in the context of the bridge height restrictions. Paragraph 8.121 of the ES (**APP1.8.2**), which related to appropriate mitigation in respect of traffic and transport, stated that any vehicle approaching the height limit of 3.81m would be required to register at the northern temporary construction compound before being permitted to proceed and that where a suitable delivery vehicle/load geometry was not available (i.e. a vehicle able to pass under that height), the loads would be broken down at that compound and transported on appropriately sized vehicles.
- 10.186 The Appellant accepts that this did not follow through into the draft Construction Traffic Management Plan ("**CTMP**") but it was clearly intended as mitigation, as expressly stated within the ES assessment, and indeed the northern temporary construction compound has been designed so as to be able to accept such vehicles to pass through a 'goal post' height check before proceeding towards the bridge for this purpose.
- 10.187 It is therefore the Appellant's view that the CTMP should include this mitigation, with the CTMP to be the subject of a planning condition requiring such to be submitted to and approved by the Council prior to commencement of development. A draft planning condition has been prepared on this basis, which is provided at **Appendix 6** of this Statement of Case.
- 10.188 With respect to the potential impacts associated with HGVs not passing under the railway bridge and being decanted into smaller vehicles, the findings of the ES would stand. Considering the greatest number of loads being associated with the solar panels, mounting and aggregate: panel and mounting delivery movements would not differ greatly as LGVs can carry the panels at the same rate calculated to adequately supply the construction teams. HGV aggregate tippers have been modelled to safely pass under the arched railway bridge. Traffic movements associated with other loads are not anticipated to materially change the numbers of overall movements.
- 10.189 As HGVs will be held within the northern construction compound to be decanted, no further impacts on the wider network are anticipated.

Traffic Management

- 10.190 The Highways Authority raised the following within its consultation response in relation to traffic management:

"3. Church Lane may be relatively quiet compared to many of the County's Roads, it does still however carry an element of background traffic. The section of highway south of the National Grid sub station narrows and does not allow for delivery vehicles to pass any traffic travelling in the other direction. Visibility from the south heading north is restricted by a bend just south of the highway bridge over The River Stour.

I would suggest that to remove the risk of opposing vehicles obstructing each other this would be best managed by the access gate immediately to the south of The Stour gates being manned. When deliveries approach from the north, these can stop at the northern compound and radio ahead to enable the banksman at the southern entrance to stop any vehicles travelling north simply via STOP/GO board or similar arrangement until the delivery vehicles have left the highway."

10.191 The Highways Authority suggested that to avoid risk of vehicles obstructing each other on Church Lane, the access gate to the south of The Stour should be manned and the northern compound should also be utilised to make vehicles stop and to contact the banksman at the gate so that the onward travel of the vehicles can be managed. The Appellant has no objection to inclusion of the requirement for appointment of a banksman at the south gate and for such co-ordination to take place between the banksman and the northern construction compound so as to manage vehicles using Church Lane during the construction period.

10.192 It is the Appellant's view that the CTMP should include this mitigation, with the CTMP to be the subject of a planning condition requiring such to be submitted to and approved by the Council prior to commencement of development. A draft planning condition has been prepared on this basis, which is provided at **Appendix 6** of this Statement of Case.

Vehicle Weight Restrictions

10.193 The Highways Authority raised the following within its consultation response in relation to vehicle weight restrictions:

"4. When the maximum sized vehicle useable has been established (item 1), details regarding the maximum laden weight of these vehicles should be provided so discussions with the Kent County Council Structures Team can be had with reference to the brick built bridge over the River Stour."

10.194 It is the Appellant's view that such discussions would inform the extent to which the River Stour bridge could be utilised by certain vehicles, which in turn would inform the HGV routeing strategy for construction traffic associated with the Proposed Development. Again, this is capable of being managed through the CTMP, for which the Appellant proposes a draft planning condition, which is provided at **Appendix 6** of this Statement of Case.

Traffic Signage

10.195 The Highways Authority raised the following within its consultation response in relation to use of traffic management signage:

"5. Routing for construction traffic in terms of approach direction is suitable and the common sense approach for delivery vehicles. Despite this however, I am aware that the previous solar farm construction still resulted in several delivery vehicles approach the site from the south using an unacceptable route and causing access difficulties for local residents. With this in mind, signing needs to be provided at the Church Road/Roman Road junction and the Roman Road/Knoll Hill Junction clearly stating No Access to the East Stour solar site. Likewise, if access points on to the highway are to be un-manned, then no right/left turn signing (as suits) should be placed at site exit to remind deliver drivers of appropriate routing."

10.196 The Highways Authority raised the need for signage at specific locations clearly stating where no access is available to the Site. The draft CTMP had already considered that such would be appropriate for the Proposed Development, albeit not with the full extent of specific locations given by the Highways Authority. Again, the Appellant does not object to

the inclusion of such a requirement and considers that this is capable of being managed through the CTMP, for which the Appellant proposes a draft planning condition, which is provided at **Appendix 6** of this Statement of Case.

Conclusions

- 10.197 The Officer's Report (**APP1.19**) simply concurs with the position of the Highways Authority, simply recording that the Appellant did not address those points, and concludes that in the absence of the feasibility of those options it is not possible to assess and conclude on solus and cumulative effects. However, the SEI could not have addressed those points in the absence of the consultation response from the Highways Authority and all requests to discuss these matters further were not entertained by either the Highways Authority or the Council.
- 10.198 As demonstrated above, the issues raised by the Highways Authority have either already been addressed as part of the ES assessment, or are capable of being managed through the CTMP and an associated planning condition, the wording for which the Appellant has proposed at **Appendix 6**.
- 10.199 It has therefore been demonstrated that the proposals comply with policies TRA7, TRA8 and ENV10 of the Ashfield Local Plan (**APP3.1**), emerging policy AB10 of the Aldington and Bonnington Neighbourhood Plan (**APP3.3**) and the provisions of the NPPF (**APP3.4**).

Ecology and Ornithology

- 10.200 The fourth Reason for Refusal states that insufficient information has been provided by the Appellant in relation to enhancement measures for Badger (*Meles meles*), Breeding Birds and Brown Hare (*Lepus europaeus*), failing to demonstrate that the Proposed Development would have an acceptable impact on protected species.
- 10.201 As indicated above, a consultation response from the Kent County Council Ecological Advice Service ("**KCC EAS**"), dated 18 April 2024, was provided in response to the SEI (**APP2.2.5**), which raised concerns about the Proposed Development's impacts on Badgers and Breeding Birds. In the fourth Reason for Refusal, it also states insufficient information has been provided in relation to Brown Hare. A video of Brown Hare in the garden of a member of public believed to be in the immediate vicinity of the Site was provided in a public comment on the application, (**APP2.3**) however, KCC EAS did not include any commentary relating to Brown Hare within its consultation response and did not request any further information in relation to Brown Hare, contrary to what is stated within the Officer's Report (**APP1.19**).
- 10.202 Whilst not referenced in the covering submission letter (**APP1.3**), the e-mail submission of further information to the Council identified that a confidential Badger submission was to be provided separately due to its sensitive nature. Such material had been prepared to respond to comments raised by KCC EAS in respect of Badger and Breeding Birds and in response to the video submitted by a member of the public in relation to Brown Hare. The Appellant erroneously neglected to provide this ecological submission to the Council.
- 10.203 This Statement of Case considers KCC EAS' concerns about protected species in turn below and provides a summary of the further information needed to inform a decision, including a summary of the Biodiversity Net Gain Assessment which has been submitted as part of this appeal having regard to emerging Aldington and Bonnington Neighbourhood Plan Policy AB1; however it does not introduce any material changes to the mitigation proposed or assessments within the Environmental Impact Assessment. Detailed information is provided in the supporting document 'TT3176-East Stour Supplementary Ecology Information-R02-Rev00 (Turnstone Ecology, 2024)' (**APP1.22**), ('TT3176-East Stour

Biodiversity Net Gain-R03-Rev01 (Turnstone Ecology, 2024) (**APP1.24**) and the full details of the ecological assessment can be found in Chapter 10 of the ES (**APP1.8.2**).

Badger

- 10.204 In relation to Badger, the KCC EAS consultation response (**APP2.1.11**) stated as follows:

"Badgers are protected under the Protection of Badgers Act 1992. The exact locations of the badger setts have not been provided in the form of a plan, although they are described within the Turnstone Ecology Ecological Assessment Rev01. It is noted that works are proposed within 20m and 10m of an active badger sett. It is further noted that it is believed unlikely that badger setts will be directly damaged by works. However, the report stated that indirect disturbance related impacts are possible. A Natural England badger licence may be required for disturbance related impacts.

It is stated in the report that fence installation will take place between May/June and September to avoid impacts to breeding female badgers. However, work near active badger setts is usually licenced between July and November inclusive to avoid disturbance to breeding female badgers. Clarification is requested regarding the potential impacts upon the nearby badger setts, and confirmation as to whether a Natural England badger licence is likely to be required to carry out works. The exact locations of the badger setts are requested to be provided to KCC EAS for review, on a suitable plan."

- 10.205 The exact locations of the Badger setts are provided in Figure 5 of the supporting supplementary ecology Information document (**APP1.22**). No works are proposed within 30m of sett 2 or sett 3 and these setts will not be affected by the works. Solar panels will be a minimum of 18m from sett 1 and a perimeter fence will be installed 10m from the sett, ensuring a continuous 10m stand-off distance throughout the duration of the installation works. The installation of this fencing has the potential to cause short term disturbance to the Badger sett and a Natural England Badger Disturbance Licence will be obtained before works begin.
- 10.206 The Appellant is in agreement that the proposed fencing installation should avoid disturbance to breeding female Badgers and to ensure this the installation will take place between July and November inclusive, this has been detailed in the supporting supplementary ecology information document (**APP1.22**).
- 10.207 No further impacts to Badgers are anticipated, mitigation measures will be put in place to ensure any foraging Badgers do not become trapped within any excavation works and the perimeter fencing will be raised 150mm from ground level, with suitable substrate for digging, to allow Badgers access to newly created grassland habitats across the Site.
- 10.208 Full details in relation to Badger mitigation are provided in the supporting Supplementary Ecology information document.
- 10.209 It is the Appellant's view, in agreement with the suggestion by KCC EAS, that the above mitigation should be included in a Construction Environmental Management Plan ("**CEMP**") and Landscape and Ecology Management Plan ("**LEMP**"), with the CEMP and LEMP to be the subject of a planning condition requiring such to be submitted to and approved by the Council prior to the commencement of development. In addition, a Natural England Badger Disturbance Licence must be in place before works that will break ground within 30m of a sett take place. Draft planning conditions have been prepared on this basis, which are provided at **Appendix 6** of this Statement of Case.

Breeding Birds

- 10.210 In relation to Breeding Birds, the KCC EAS consultation response (**APP2.1.11**) stated as follows:

"Skylark and Lapwing: It is noted that mitigations are proposed in one field for up to three pairs of skylark and two pairs of lapwing. Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a general duty on all public authorities, including the local planning authorities, to conserve and enhance biodiversity. Lapwing and skylark are listed as species of principal importance (priority species) for conservation under Section 41 of the Act, 2006. Natural England guidance on 'Wild birds: advice for making planning decisions', published 14 January 2022, states 'you must have regard for the conservation of Section 41 species as part of your planning decision.'

It should be noted that Royal Society for the Protection of Birds (RSPB) advice contained within 'A management guide to birds of lowland farmland' (Winspear and Davies, 2005) suggests that 'lapwings generally avoid nesting in enclosed fields of less than 5 ha or close to field boundaries that can harbour predators, or in an area in the immediate vicinity of trees or other features that can act as predator perches.' The guide further indicates that 'skylarks generally avoid small fields. The best fields to use are ones of at least 5 ha if bounded by open field boundaries or short hedges, or fields of at least 10 ha if bounded by tall hedges or woodland.' The amount of usable space within the proposed mitigation area for these birds is suggested by Kent County Council Ecological Advice Service (KCC EAS) to be around 5 ha, with a tall existing hedgerow to the west, and proposed tall hedgerows to the north and east.

More detailed information is requested regarding the design and management strategy for skylark and lapwing to ensure that the proposed mitigations, are sufficient for the loss of breeding territories. This may include changes to the locations and management of hedgerows (e.g., in terms of targeted height), and where appropriate, additional land to mitigate for the loss of the breeding territories."

- 10.211 During the completed surveys up to two pairs of Lapwing were recorded as probable breeders in arable fields to the south of the M20. Birds were recorded displaying agitated behaviour on the May visit suggesting chicks were present; however breeding could not be confirmed. As the fields are bounded by woodlands to the east, west and south as well as a tall shelter belt to the north (along the M20) they are considered sub-optimal breeding habitat, as ground nesting birds prefer an open aspect. Therefore, the proposals will result in the loss of sub-optimal Lapwing breeding habitat. The arable fields being lost to the proposals are considered to be supporting up to three pairs of Skylark.
- 10.212 The full detailed mitigation strategy for breeding birds can be found in Chapter 10 of the ES (**APP1.8.2**), with further clarifications on such provided in response to KCC EAS in the supporting supplementary ecology information document (**APP1.22**). The Proposed Development includes the enhancement of an area of approximately 7.5ha of arable to wildflower meadow to the east of the southern array. The hedgerow along the western side of Church Lane will be planted up and will be maintained at 3m in height. The hedgerow along the eastern side of Church Lane will be maintained in its current state at approximately 1.5 – 2m tall. A new hedgerow will be planted along the northern edge of the grassland area to the west of Church Lane to screen the solar panels and this hedgerow will be maintained at a height of approximately 3m and an additional new hedgerow will be planted along the northern edge of the northern array. The central hedge will be subject to improvements where necessary.
- 10.213 The new area of grassland will be approximately 7.5ha in size (greater than the recommended 5ha plot required for nesting Lapwing) but will be partially enclosed by new or enhanced hedgerows. The grassland area will be of sufficient size to support up to two

pairs of Lapwing.

- 10.214 There are three pairs of Skylark currently using the Site footprint. Although the current habitat will be lost, proposed grassland habitats under the panels will be subject to low-density grazing and Skylark have been shown to forage under solar panels, using the panels to make frequent short trips to forage and then returning to an elevated position (RSPB, 2020).
- 10.215 The previous habitat within this land has been intensively farmed or sheep grazed, farmland. Nesting density varies from habitat and crop type, with studies showing that territory density increases with structural diversity (Miguet et al., 2013 (**APP7.1**)). Habitats such as the proposed wildflower grassland provide much more suitable foraging habitat for Skylark, and they have been shown to nest more densely within this habitat (Browne et al., 2000 (**APP7.2**)).
- 10.216 Given the significantly improved productivity of the proposed habitat, this level of mitigation adequately protects the species and their breeding success potential in future at the Site.
- 10.217 In addition, further areas of grassland habitat will be created to the east and south of the northern array and whilst this grassland is unlikely to be used by breeding Lapwing and Skylark due to proximity to woodlands, these grassland areas will be suitable for foraging for additional nesting birds as well as birds surrounding the Site.
- 10.218 The impact of the scheme on Skylark will be neutral at worst (e.g. no loss of breeding pairs) and the increase in suitable breeding and foraging habitat (created grassland habitats and grassland habitats under the solar arrays) could result in a minor positive impact.
- 10.219 Bird boxes are included in the mitigation strategy of the EIA and will consist of a total of 10 passerine boxes (5 x hole-nesting boxes for smaller birds, 3 x hole-nesting boxes for larger birds (e.g. Starling) and 2 open-fronted boxes) as well as two pole or tree mounted Barn Owl/Kestrel boxes. The total number of bird boxes being erected is 12.
- 10.220 It is the Appellant's view, in agreement with the suggestion by KCC EAS, that the above mitigation, including soft landscaping, should be included in the LEMP and that should be the subject of a planning condition requiring such to be submitted to and approved by the Council prior to the commencement of development. A draft planning condition has been prepared on this basis, which is provided at **Appendix 6** of this Statement of Case.

Brown Hare

- 10.221 KCC EAS did not raise any concerns (or indeed any commentary at all) in relation to Brown Hare in its consultation response, however the Officer's Report (**APP1.19**) states:
- "I note the submissions from interested parties relating to evidence of Brown Hare near to the site and I concur with the County Ecologist's view that contrary to the ES, the site provides suitable habitat for Brown Hare which is likely to be present at the site. Clarification regarding the mitigation and operational management required to conserve and enhance the value of the site is needed."*
- 10.222 It is therefore unclear as to whether the Officer has had sight of material from KCC EAS which the Appellant has not had access to, or that references to views from KCC EAS in relation to brown hare are erroneously recorded in the Officer's report.
- 10.223 Since publication of the EcIA (as part of the ES) a video showing Brown Hare has been provided by a local resident which is presented as being adjacent to the Site. No records of the species were recorded during any of the initial surveys completed in support of the

EcIA (as part of the ES) in 2021. In preparation for the appeal an update site walkover was undertaken in July 2024 which also did not find any evidence of Brown Hare.

- 10.224 Numerous surveys were completed at a time of year where Brown Hare should have been active, however none were recorded by Turnstone Ecology. It is therefore considered that any Brown Hare present within and adjacent to the Site are in very low densities. Direct impacts on Brown Hare are not anticipated as they are a highly mobile species, including new-born young, however it is recommended that a pre-construction survey is undertaken to ensure that forms containing very young leverets are not present in the working areas. Walkover surveys will be completed, along with the use of thermal imaging cameras to check the working areas for forms.
- 10.225 Should active forms be identified, an exclusion zone of 50m will be applied around each active form until it has been proven to be naturally abandoned (e.g. no leverets present), after which time the exclusion zone will be lifted. Any exclusion zone will ensure that commuting routes from edge habitats remain free of construction activities so females can still get to dependent young at night. If required, exclusion zones around forms are likely to be in place for between three to eight weeks.
- 10.226 The ecological enhancement plan will result in the creation of large areas of grassland outside of the panels as well as the creation of grassland under the panels themselves. Site-wide fencing will also be installed so that there is a 150mm gap which will allow passage of Brown Hare across the Site and in/out of newly created areas of grassland. The increase in grassland habitats will be of benefit to breeding and foraging Brown Hare and it is therefore considered that the Proposed Development is likely to have a minor positive impact on Brown Hare.

Biodiversity Net Gain Assessment

- 10.227 The ES considered the likely ecological impacts of the Proposed Development and proposed mitigation and enhancement to ensure that the scheme resulted in a positive impact on valued ecological receptors, thus resulting in an increase in biodiversity. In this regard, no concerns have been raised by the Council or any statutory consultee in relation to Biodiversity Net Gain ("**BNG**").
- 10.228 However, in light of the evolution of the emerging Aldington and Bonnington Neighbourhood Plan (**APP3.3**), in particular draft Policy AB1, which is anticipated to be adopted imminently, a full BNG Assessment has been submitted as part of this appeal to demonstrate the substantial net gain the Proposed Development will provide (**APP1.24**).
- 10.229 As a result of proposed habitat retention, enhancement and creation, the Proposed Development will result in a net gain of 250.93 habitat units which equates to a 116.84% net gain on habitats and a net gain of 18.54 hedgerow units which equates to an 230.36% net gain on hedgerows. Trading rules have been met and satisfied for both habitat and hedgerow units. This exceeds the requirements proposed in the emerging Aldington and Bonnington Neighbourhood Plan. Appropriate habitat management prescriptions will need to be implemented to ensure these gains are achieved.
- 10.230 It is the Appellant's view that to ensure the above BNG are achieved, full details of required management and monitoring per habitat type should be included as part of the LEMP. The LEMP should be the subject of a planning condition requiring such to be submitted to and approved by the Council prior to the commencement of development. A draft planning condition has been prepared on this basis, which is provided at **Appendix 6** of this Statement of Case.

Conclusions

- 10.231 As demonstrated above, the issues raised by the KCC EAS and request for further information have been addressed in the Supplementary Ecology information document (**APP1.14**). That document, alongside this Statement of Case show that it has been satisfactorily demonstrated that the Proposed Development would not have a harmful effect on ecology. The proposed mitigation and enhancement measures can be secured through planning conditions, the wording for which the Appellant has proposed at **Appendix 6**.
- 10.232 It has therefore been demonstrated that the proposals comply with policies ENV1 and ENV10 of the Ashfield Local Plan (**APP3.1**), emerging policies AB1 and AB10 of the Aldington and Bonnington Neighbourhood Plan (**APP3.3**) and the provisions of the NPPF (**APP3.4**).

Minerals

- 10.233 The fifth Reason for Refusal states that by reason of the absence of a Minerals Safeguarding Assessment the Appellant has failed to demonstrate that the safeguarded mineral deposit on the Site is not being needlessly sterilised.
- 10.234 The Appellant submitted an e-mail to Kent County Council's Minerals and Waste team on 27 February 2024 advising as to its position that minerals at the Site would not be sterilised by the Proposed Development (**APP1.17**). No response was received to this correspondence.
- 10.235 To address this Reason for Refusal, and in support of the Appellant's position as expressed in correspondence to Kent County Council, a Mineral Safeguarding Assessment ("**MSA**") has been prepared by IC Planning and can be found at **APP1.23**. The MSA demonstrates that the Proposed Development will not result in the needless sterilisation of the existing mineral resource found beneath limited parts of the Site.
- 10.236 The safeguarded mineral deposits do not cover the whole Site as shown on the plan within the appendices of the MSA. The Site includes approximately 35ha of land safeguarded for potential Sub-Alluvial River Terrace deposits and approximately 5ha of Limestone from the Hythe Formation.
- 10.237 A consultation response was received from the Kent County Council Minerals and Waste team to the planning application on 1 February 2024 (**APP2.2.6**). The response acknowledges that of the two safeguarded minerals, the Sub-Alluvial River Terrace Deposits within the Site can be treated as de minimis. In relation to the Hythe Formation deposits, the response confirms that the Proposed Development around Bested Hill in the western portion of the Site should be subject to further assessment.
- 10.238 The Reason for Refusal states that the Proposed Development would conflict with Policy DM7 of the Kent Minerals and Waste Local Plan (2013 to 2030) as amended by the Early Partial Review (adopted 2020) (**APP3.2**). As set out in detail in the accompanying MSA prepared by IC Planning, the Proposed Development is considered to meet criteria 2 and criteria 4 of Policy DM7 in that:
- 10.238.1 Existing site constraints have effectively already sterilised a significant portion of the minerals resource indicated as being present on-site; and
- 10.238.2 The project seeks planning permission for a temporary 40-year period, following which the solar farm and its supporting infrastructure will be removed from the Site; this will remove of any constraint on the future mineral extraction.
- 10.239 As summarised above and set out in detail in the accompanying MSA, the Proposed Development meets two of the criteria set out in Policy DM7 and therefore complies with

the policy.

11. Other Interests not forming part of the Reasons for Refusal

- 11.1 Taking into account the statutory consultation responses, Officer Report and Reasons for Refusal, it is considered that with the exception of the five Reasons for Refusal, there is common ground between the Appellant and the Council on all other matters. For completeness however those matters not in dispute are summarised below.

Geology, Hydrology and Hydrogeology

- 11.2 The ES (**APP1.8**) considered the potential effects of the Proposed Development in respect of soils, geology, hydrogeology, groundwater, surface water, private water supplies and flood risk, concluding that there would be no significant effects likely to arise as a result of the Proposed Development with mitigation employed. The ES concluded that all potential impacts arising, including any cumulative impacts (the assessment for which was updated in the SEI (**APP1.14**)), could be appropriately managed through mitigation measures, good practice construction methods and sustainable design.
- 11.3 This position was supported by the absence of concerns or objections raised by the Environment Agency (**APP2.1.8**), Kent County Council's Flood and Water Management team (**APP2.1.12**) or the River Stour Internal Drainage Board (**APP2.1.21**) and indeed by the Officer's Report (**APP1.19**).

Noise

- 11.4 The ES (**APP1.8**) concluded that for noise generated by the Proposed Development during the construction phase, no significant adverse noise impacts are anticipated and that with mitigation proposed through the Construction Environmental Management Plan, effects are likely to be negligible in nature and for a short duration.
- 11.5 The ES concluded that noise impacts during the operational phase would generally fall well below the proposed noise limits which are, in turn, significantly below the level at which sleep disturbance is likely to occur. Operational noise impacts were considered to be negligible, save for predicted noise levels at receptor AL02 (Bested House) where predicted noise levels would be 1dB above the noise limit, giving a minor impact significance. The SEI (**APP1.14**) provided an updated cumulative assessment which concluded that cumulative noise levels have the potential to be "present but not intrusive" and this would be within the no observed adverse effect level. In all cases, the ES concluded no likely significant effects.
- 11.6 This position was supported by the absence of any statutory consultee concerns or objections and indeed by the Officer's Report (**APP1.19**).

Glint and Glare

- 11.7 The ES (**APP1.8**) concludes that impacts from solar reflections due to the Proposed Development at residential receptors, road receptors and rail receptors are not significant. Green glare impacts are predicted on the approach path for Runway 23 at Pent Farm, however green glare impacts are acceptable on runway approach paths and the effects are therefore not considered to be significant. Mitigation is proposed in the form of screening for some of the road receptors. No cumulative effects are predicted, as per the updated cumulative assessment carried out in the SEI (**APP1.14**).
- 11.8 This position was supported by the absence of any statutory consultee concerns or objections and indeed by the Officer's Report (**APP1.19**).

Summary

- 11.9 Statutory consultees and the Council's Planning Officer have considered a wide range of issues relevant to the Proposed Development, concluding that it is acceptable in respect of the various matters discussed above subject to imposition of conditions.

12. Overall Planning Balance

- 12.1 The planning application was refused for 5 reasons and the issues raised in the Reasons for Refusal have been comprehensively addressed above. It is the Appellant's position that the Proposed Development complies with the requirements of the development plan as a whole, as set out in the Appellant's Development Plan Policy Assessment at **Appendix 3** of this Statement of Case, and positively addresses other relevant material considerations. In such cases, paragraph 11 of the NPPF (**APP3.4**) advises the decision maker that planning permission should be granted without delay.
- 12.2 The principal development plan policy for the consideration of the Proposed Development is Policy ENV10 (Renewable & Low Carbon Energy) (**APP3.1**) which seeks to support the delivery of renewable energy in the Borough. Policy ENV10 is a criteria-based policy and advises that proposals will be supported provided that such criteria are met. The analysis in this Statement of Case demonstrates that the proposals do not conflict with Policy ENV10 as a whole.
- 12.3 The principle of the policy is to promote renewable and low carbon energy and paragraph 9.95 of the Ashford Local Plan (supporting text to the renewable energy policies) advises:
- "The NPPF (Para. 97) recognises the responsibility on all communities to contribute to energy generation from renewable and low carbon sources. LPAs are required to have a positive strategy to promote energy from renewable and low carbon sources as it helps ensure a secure more sustainable supply of energy that reduces carbon emissions minimising the impact of climate change."*
- 12.4 Emerging Neighbourhood Plan policy AB10 (Renewable and Community Energy) criteria 5 (**APP3.3**) requires the benefits of renewable energy to be proven to outweigh the landscape and environmental impacts.
- 12.5 As set out at paragraph 10.53, it would be impossible to site any commercial scale solar project in the UK without significantly affecting the character of at least the site and immediate surroundings. It is important to note that landscape effects that are described as "significant" in the ES and SEI are effects that have been deemed by the assessor to be material to the planning decision and significant adverse effects are not necessarily "unacceptable effects".
- 12.6 Paragraph 10.119 advises that significant effects on landscape character would be limited to the Site and immediate surroundings, with the extent of the effects beyond the footprint of the development diminishing as the mitigation planting matures. With regard to footpaths, none of the PROWs on the Site would be physically changed and, although there would be significant effects on the visual amenity of walkers on some sections of some of the footpaths, there would also be alternative permissive routes which could be taken if walkers preferred not to walk through the Site (**APP1.21**).
- 12.7 As such, localised significant landscape effects are inevitable for a commercial scale solar project, and this is acknowledged in NPS EN-1. Any narrow interpretation of Policy ENV10 would therefore not be consistent with the objectives of NPPF, NPSs and other guidance which clearly supports the delivery of this type of development.

- 12.8 As discussed in relation the various development scenarios earlier in this document, the worst case landscape and visual cumulative position would include the Stonestreet Green Solar NSIP, for which the assessment finds that there could be some significant adverse combined effects on the character of the landscape within the East Stour Valley and Aldington Ridgeline LCAs and on the visual amenity of visitors to the Aldington Races point-to-point (if this event were to be held in the future), walkers following circular or linear routes on local PROWs through both sites and motorists following several minor roads close to both sites. These effects would be slightly greater and/or more extensive than the individual significant effects predicted for the Proposed Development in development scenario 1 and the additional effects in development scenario 2.
- 12.9 In heritage terms, the Proposed Development will have a minor adverse effect on the contribution that aspects of the setting provide to the Church of St Martin and Court Lodge Farm. The majority of the setting of the designated assets will be unaffected by the Proposed Development. The primary aspects of the significance of the assets (i.e. the architectural and historical interest of their form and fabric) will be unaffected. Due to the very limited visual effect, the significance of the asset will be no more than minor (viewpoint 7 (**APP1.18.2**) is the 'worst' effect). This is considered to be a less than substantial harmful impact on the significance of the Church of St Martin and Court Lodge Farm. This effect is on the lowest end of the less than substantial harmful scale as the significance of the designated assets is almost entirely unaffected.
- 12.10 Notwithstanding the above, it is acknowledged that the Proposed Development will result in localised significant adverse effects on the landscape, visual amenity of residents in Bested House and The Paddock (until the mitigation planting is established), visitors to the Aldington Races point-to-point (if this event were to be held in the future), walkers using PROWs on and around the Site and motorists and their passengers on Church Lane, and cumulatively. It has also been established that there would be limited less than substantial harm to the significance of the Church of St Martin and Court Lodge Farm. As such and in line with paragraph 208 of NPPF, the decision maker will need to balance the limited less than substantial harmful effect of the scheme against the public benefits of the scheme. No other harm has been identified and the issues raised at Reasons for Refusal 3, 4 and 5 have been comprehensively addressed above.
- 12.11 Therefore, to assist the Inspector with the above NPPF paragraph 208 balance or if it is considered that a balancing exercise is required in relation to any other matters, the following considerations and associated material benefits that flow from the Proposed Development are considered to weigh heavily in favour of the proposals:
- 12.11.1 the presumption in favour of the Proposed Development as a sustainable renewable energy scheme;
 - 12.11.2 the urgent need for renewable energy projects to contribute towards meeting the legally binding and challenging net zero targets, as recognised at a national and local level;
 - 12.11.3 the wider environmental, social and economic benefits associated with the Proposed Development; and
 - 12.11.4 Location and Grid Connection.

Presumption in Favour of Sustainable Development

- 12.12 Paragraph 11 of the NPPF (**APP3.4**) outlines the presumption in favour of sustainable development. Renewable energy can be recognised inherently as a form of sustainable development and in this case fulfils all three of the limbs of economic, social and

environmental elements of sustainable development as set out within the NPPF.

- 12.13 The Proposed Development benefits from a presumption in favour of sustainable development at a national and local level and as a clean renewable energy project, it is a form of development which is supported in principle.

Urgent Need for Renewable Energy

- 12.14 The ES (**APP1.8**) and Planning Statement (**APP1.16**) which accompanied the planning application provide a detailed summary of the policy and guidance which underpins the urgent need to reduce greenhouse gas emissions and reduce reliance on fossil fuels. This is accepted at international, national and local levels, with the Council acknowledging the part it is required to play in contributing towards meeting those targets.
- 12.15 It is predicted that the Proposed Development at this Site would offset the equivalent annual electricity needs of approximately 17,000 (to 3 S.F.) average Ashford Borough homes (based on average domestic consumption per household of 4,080kWh (DBEIS, 2022)). This level of renewable energy generation is significant and the benefits that arise from it should be given substantial weight in the planning balance as referenced in numerous appeal decisions (see the Cutlers Green Lane appeal decision at **APP8.4** for an example) and the proposed changes to the NPPF (**APP3.4**).
- 12.16 From the displacement of electricity generated from fossil fuels, the Proposed Development would offset the emission of a significant quantity of pollutants, particularly carbon dioxide, into the atmosphere. This reduction in emissions would contribute to the national legislation of achieving zero net carbon emissions by 2050 and international reductions required under the legally binding obligations of the Climate Change Act 2008 (**APP9.3**) and international Paris Agreement 2016 (**APP3.17**). It also contributes to the Council's aims of achieving net zero carbon by 2050.
- 12.17 Calculations set out in the SEI (**APP1.14**) advise the electricity produced by the East Stour Solar Farm will offset an updated equivalent of 14,300,000 kgCO₂ per annum (to 3 S.F.). As such, the Proposed Development would significantly contribute towards reducing CO₂ emissions and the Government meeting its zero net carbon target by 2050.
- 12.18 In addition to the clear environmental benefits associated with the reduction of CO₂ emissions, the development of such facilities will help ensure energy security which has become a much more pertinent issue since the Russian invasion of Ukraine in February 2022 and the pledges made to reduce reliance on Russian oil and gas. It will also reduce the impact of volatile and high gas prices if we are able to use less gas. In April 2022, the UK Government published the British Energy Security ("**BES**") Strategy (**APP3.9**) in response to the global energy price rise and conflict between Russia and the Ukraine. The Prime Minister set out that "*we're going to take advantage of Britain's inexhaustible resources of wind and - yes - sunshine*" (DBEIS and Prime Minister's Office, 2022a (**APP3.9**)).
- 12.19 For solar, the BES Strategy reported that there is currently 14GW of solar capacity in the UK and the cost has fallen so a five-fold increase in deployment is expected by 2035. It goes on to state, "*we will continue supporting the effective use of land by encouraging large scale projects to locate on previously developed, or lower value land, where possible, and ensure projects are designed to avoid, mitigate, and where necessary, compensate for the impacts of using greenfield sites*". As outlined above, the Proposed Development will deliver enough electricity annually to power approximately 17,000 Ashford homes (based on average domestic consumption per household of 4,080kWh p.a., (DBEIS 2022)). This is a significant amount from one development and will further assist the UK in meeting its energy needs in a clean and sustainable manner.

Wider environmental, social and economic benefits

- 12.20 In addition to the clear benefits arising from the Proposed Development as a renewable energy scheme outlined above, the following site specific benefits will also arise from the Proposed Development:
- 12.20.1 socio-economic benefits to local and national UK based contractors, including the supply of construction materials, accommodation and food for construction workers, and of course on construction, the owners of the land where the panels are located will benefit from rental payments, as well as service personnel for site maintenance, with further local demands for equipment and materials, and the payment of business rates for the completed solar farm;
 - 12.20.2 a range of biodiversity benefits including a net gain of 250.93 habitat units which equates to a 116.84% net gain on habitats and a net gain of 18.54 hedgerow units which equates to a 230.36% net gain on hedgerows (as demonstrated in the BNG Assessment at **APP1.24**). The biodiversity net gains from the Proposed Development are significant and should be given substantial weight; and
 - 12.20.3 economic benefits in the form of job generation over the construction, operational and decommissioning phases. Though not quantified, there will be jobs generated in respect of the construction and decommissioning phases for work including civil engineering design, geotechnical ground investigations, civil works, onsite electrical network design, installation and commissioning, aggregate supply, haulage, plant hire and ancillary and tertiary sectors relating to supplies, accommodation, catering etc.

Location and Grid Connection

- 12.21 The Appellant has secured a grid connection to the adjacent Sellindge Converter Station. The Site will export power directly into the nearby substation at the Sellindge Converter Station. One of the most important factors in the delivery of a solar farm is the ability to have access to the National Grid Electricity Transmission System ("**NGETS**") as recognised in NPS EN-3 (**APP3.16**). Future connections to the Transmission System are challenging and currently National Grid Electricity System Operator ("**NGESO**") are advising that there are significant wait times due to existing capacity being exhausted. Therefore, projects that have secured a grid connection are fundamental to achieving net zero targets. This proposal initially secured a grid connection of 2026, but this has had to be pushed back to 2028 as a result of the project not being able to achieve planning approval in the necessary timescales.
- 12.22 The Inspector in the Cutlers Green Lane appeal (ref: APP/C1570/W/23/3319421) considered the availability of a grid connection in her decision (**APP8.4**) and concluded:

"118. The availability of a connection to the overhead line and grid connection distance have been criticised. A grid connection offer has been secured at the Thaxted Substation, approximately 4km to the north east of the site. This will ensure that the development can quickly become operational without having to wait for a grid connection to be granted. Given the constraints in the availability of grid connections nationally, this is an important factor. It has been well documented recently that constraints on connection to the National Grid is causing significant delay in allowing projects to contribute to renewable energy goals.

...

141. Moreover, it seems clear that, in order to achieve the national, legally binding

Net Zero target, a significant increase in renewable energy such as solar will be needed across the board. This applies even in areas where there are already a number of solar farm developments, subject of course, to the consideration of its impacts. As stated earlier a grid connection offer has been secured for this development. This will ensure that the development can quickly make a significant contribution towards these legally binding Net Zero targets. Accordingly, I give substantial weight to the generation of renewable energy, the contribution the development would make to a low carbon economy and the provision of low cost and secure energy."

12.23 The availability of a quick grid connection significantly adds to the overall benefit of the scheme as it can be brought forward quickly to make the required contribution to our national and regional decarbonisation targets. This should be given significant weight in the planning balance.

12.24 It also should be noted that the Officer's Report acknowledges that substantial weight should be given to the benefits of the Proposed Development. Paragraph 182 of the Officer's Report (**APP1.19**) states:

"The urgent need for renewable energy infrastructure is reflected in all levels of planning policy and guidance and, in this respect, the proposal to generate power for up to 17,000 homes would make a significant contribution towards meeting renewable energy targets and tackling the climate change agenda. This is a clear public benefit and it must be afforded substantial weight. The applicant has confirmed that there is grid capacity in the locality. This indicates that the scheme is deliverable and also weighs in favour of granting planning permission."

12.25 The Appellant agrees with the Planning Officer's assessment in this regard. Moreover, it has been demonstrated that the localised adverse effects on the landscape and limited heritage harm, are clearly outweighed by the substantial environmental benefits from the generation of renewable energy that will flow from the granting of planning permission for the Proposed Development along with the other identified social and economic benefits as outlined above.

13. Conclusions

13.1 Through this Statement of Case, the Appellant has demonstrated that the Reasons for Refusal raised by the Council are not justified.

13.2 Whilst expressly not a requirement of the NPPF, the Appellant has demonstrated the overall need for renewable energy and has further set out in detail the valuable contribution that the Proposed Development will make to the significant cutting of greenhouse gas emissions.

13.3 Pursuant to the NPPF, applications for renewable energy proposals ought properly to be granted permission where the impacts of such development are, or can be made, acceptable. The Appellant has sufficiently demonstrated that the Proposed Development's impacts would be limited to localised significant landscape effects (with such inevitable for any commercial scale solar project in the UK), some significant visual and cumulative effects, and less than substantial harm at the lowest end of the scale on the significance of two heritage assets. All other potential harm has been suitably mitigated. As such, it is the Appellant's position that the impacts of the Proposed Development are or can be made acceptable.

13.4 The benefits against which the limited harm of the Proposed Development require to be weighed comprise of:

- 13.4.1 the presumption in favour of sustainable development pursuant to paragraph 11 of the NPPF;
- 13.4.2 the urgent need for renewable energy, with solar power playing an important role to energy security and diversity as one of the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply;
- 13.4.3 the offsetting of the equivalent annual electricity needs of approximately 17,000 (to 3 S.F.) average Ashford Borough homes;
- 13.4.4 socio-economic benefits to local and national UK based contractors, the owners of the land where the panels are located who will benefit from rental payments, as well as service personnel for site maintenance, with further local demands for equipment and materials, and the payment of business rates for the completed solar farm;
- 13.4.5 significant biodiversity benefits including a net gain of 250.93 habitat units which equates to a 116.84% net gain on habitats and a net gain of 18.54 hedgerow units which equates to a 230.36% net gain on hedgerows;
- 13.4.6 economic benefits in the form of job generation over the construction, operational and decommissioning phases; and
- 13.4.7 a secured grid connection.
- 13.5 This Statement of Case demonstrates that the limited harm arising as a result of the Proposed Development is clearly outweighed by the substantial benefits which will also arise from the Proposed Development.
- 13.6 The Appellant considers that the Proposed Development complies with the requirements of the development plan as a whole and positively addresses all other relevant material considerations.
- 13.7 In light of the above, it is the Appellant's position that the Proposed Development should be granted planning permission without delay.

14. Conditions and Documents

- 14.1 The Appellant has prepared a proposed suite of planning conditions to be imposed with any grant of planning permission for the Proposed Development. A copy of these conditions has been attached at **Appendix 6** of this Statement of Case.
- 14.2 The Appellant has referred to a number of supporting documents throughout this Statement of Case. A comprehensive list of those documents is attached at **Appendix 1** of this Statement of Case for ease of reference.

Appendix 1: Appellant's List of Supporting Documents

1 Application and Related Documents	
APP1.1	Screening Opinion dated 25 August 2021
APP1.2	Scoping Report dated October 2021
APP1.3	List of Submission Documents (submitted in place of an application covering letter)
APP1.4	Completed Application Form dated 14 April 2022
APP1.5	Drawings submitted with the application, comprising ⁴ :
APP1.5.1	Figure 1.2 – Proposed Site Layout
APP1.5.2	Site Location Plan
APP1.6	Design & Access Statement dated April 2022
APP1.7	Socio Economic and Sustainability Statement dated April 2022
APP1.8	Environmental Statement dated April 2022 (“ ES ”), comprising:
APP1.8.1	ES Volume 1: Non-Technical Summary
APP1.8.2	ES Volume 2a: Written Statement
APP1.8.3	ES Volume 2b: Technical Appendices
APP1.8.4	ES Volume 3: Figures
APP1.8.5	ES Volume 4: Visualisations
APP1.8.6	ES Confidential Appendix 10.1a [Not for the public domain]
APP1.9	Letter from the Council dated 10 May 2022 confirming that the application made was invalid
APP1.10	Revised Site Location and Layout Plans submitted 7 June 2022, comprising:
APP1.10.1	Figure 1.1: Proposed Site Location
APP1.10.2	Figure 1.1a: Proposed Site Location Expanded Scale
APP1.10.3	Figure 1.2: Proposed Site Layout
APP1.10.4	Figure 1.2a: Proposed Site Layout Expanded Scale (Sheets 1 to 4)
APP1.11	Further revised Site Layout Plans submitted 27 June 2022 comprising:
APP1.11.1	ENGN1006-100 Rev I – PV Layout Part 1
APP1.11.2	ENGN1006-100 Rev I – PV Layout Part 2

⁴ It should be noted that whilst three plans were listed in the List of Submission Documents (APP1.3), two of those plans were actually duplicates of each other and one plan was mislabelled not actually identifying it as a site layout plan. The two plans with the correct naming are included at APP1.5.

APP1.12	Letter from the Council confirming the application is valid dated 29 July 2022 (erroneously dated 1 July 2022)
APP1.13	Supplementary Environmental Information ("SEI") Covering Submission Letter to the Council dated 10 January 2024 (submitted 11 January 2024)
APP1.14	SEI dated January 2024 comprising:
APP1.14.1	SEI Volume 1: Non-Technical Summary
APP1.14.2	SEI Volume 2a: Written Statement
APP1.14.3	SEI Volume 2b: Technical Appendices
APP1.14.4	SEI Volume 3: SEI Figures
APP1.14.5	SEI Volume 4: Visualisations
APP1.15	Updated Design and Access Statement dated January 2024
APP1.16	Planning Statement dated January 2024
APP1.17	Email to Kent County Council's Minerals and Waste Planning Policy Team dated 27 February 2024 in relation to minerals safeguarding
APP1.18	Letter to the Council dated 14 April 2024 (but submitted 16 April 2024) enclosing an update to ES Appendix 11.2 LVIA Methodology as Appendix A, and submitting new material, which comprises:
	Replacement ES Volume 4 Viewpoints comprising:
APP1.18.1	Viewpoint 5 Revision A
APP1.18.2	Viewpoint 7 Revision A
	Replacement SEI Figures comprising:
APP1.18.3	Figure 11.11 Revision A – VP6 (Layout Refinement) [Year 10 post construction]
APP1.18.4	Figure 11.12 Revision A – VP7 (Layout Refinement) [Year 10 post construction]
APP1.18.5	Figure 11.13 – VP8 (Layout Refinement) [at completion]
APP1.19	Officer Report for planning application 22/00668/AS
APP1.20	Council Decision Notice dated 29 April 2024 for planning application 22/00668/AS
APP1.21	SEI Figure 11.9 Revision B – Mitigation Plan
APP1.22	Ecological Submission dated September 2024, prepared by Turnstone Ecology Limited [Redacted for the public domain due to confidential contents]
APP1.23	Minerals Safeguarding Assessment dated September 2024, prepared by IC Planning
APP1.24	Biodiversity Net Gain Assessment dated September 2024, prepared by Turnstone Ecology Limited
2 Consultation Responses	

APP2.1	Consultation Responses to Application Documentation, including local action group, comprising APP2.1.1 to APP2.1.24:
APP2.1.1	Aldington and Bonnington Parish Council (14 September 2022)
APP2.1.2	Ashford Borough Council (16 May 2023)
APP2.1.3	Church Lane Group (26 July 2022)
APP2.1.4	Church Lane Group (undated, but a resubmission of the 26 July 2022 objection, with some amendments to the text)
APP2.1.5	Church Lane Group (9 August 2022)
APP2.1.6	Church Lane Group (dated 9 August 2022 but different to APP2.1.5 submission and submitted 30 August 2022)
APP2.1.7	Church Lane Group (21 October 2022)
APP2.1.8	Environment Agency (23 August 2022)
APP2.1.9	Historic England (5 September 2022)
APP2.1.10	Kent County Council – PROW & Access (16 August 2022)
APP2.1.11	Kent County Council – Ecological Advice Service (25 August 2022)
APP2.1.12	Kent County Council – Flood & Water Management (18 August 2022)
APP2.1.13	Kent County Council – Heritage, Environment & Waste (30 August 2022)
APP2.1.14	Kent Downs AONB Unit (30 November 2022)
APP2.1.15	Kent Police (16 August 2022)
APP2.1.16	Kent Police (16 August 2022)
APP2.1.17	Kent Ramblers (August 2022)
APP2.1.18	Mersham Parish Council (13 October 2022)
APP2.1.19	National Highways (22 August 2022)
APP2.1.20	Natural England (13 September 2022)
APP2.1.21	River Stour (Kent) IDB (25 October 2022)
APP2.1.22	Smeeth Parish Council (21 October 2022)
APP2.1.23	The British Horse Society (17 August 2022)
APP2.1.24	Tunbridge Wells Borough Council – Environmental Protection (6 September 2022)
APP2.1.25	Neos Networks (29 July 2022)
APP2.2	Consultation Responses, including local action group, to Supplementary Environmental Information dated January 2024, comprising APP2.2.1 to APP2.2.12:

APP2.2.1	Church Lane Group (2 March 2024)
APP2.2.2	Environment Agency (6 March 2024)
APP2.2.3	Historic England (11 March 2024)
APP2.2.4	Kent County Council – PROW & Access (7 March 2024)
APP2.2.5	Kent County Council – Ecological Advice Service (18 April 2024)
APP2.2.6	Kent County Council – Minerals & Waste Planning Policy Team (1 February 2024)
APP2.2.7	Kent County Council – Flood & Water Management (14 February 2024)
APP2.2.8	Kent County Council – Highways (21 February 2024)
APP2.2.9	Kent Downs National Landscape Unit (formerly known as Kent Downs AONB Unit) (20 February 2024)
APP2.2.10	National Highways (29 February 2024)
APP2.2.11	Natural England (15 March 2024)
APP2.2.12	Network Rail (4 March 2024)
APP2.3	Third Party Representations (49 objections of which 6 comprise second submissions from the same party, and excluding the objections submitted by Church Lane Group which are included as part of the consultation responses)
3 The Development Plan, National Policy and Other Material Considerations	
APP3.1	Ashford Borough Local Plan adopted February 2019
APP3.2	Kent Minerals and Waste Local Plan 2013-30 adopted September 2020
APP3.3	Emerging Aldington and Bonnington Neighbourhood Plan
APP3.4	National Planning Policy Framework (updated December 2023)
APP3.5	National Planning Practice Guidance (online resource) http://planningguidance.planningportal.gov.uk/
APP3.6	Ashford Borough Council Climate Change Strategy (June 2022)
APP3.7	Energy White Paper Powering our Net Zero Future (December 2020)
APP3.8	HM Treasury National Infrastructure Strategy 2020
APP3.9	British Energy Security Strategy (April 2022)
APP3.10	Powering up Britain Policy Paper (March 2023)
APP3.11	Written Ministerial Statement made by the Deputy Prime Minister on 30 July 2024
APP3.12	Consultation Draft National Planning Policy Framework (2024)
APP3.13	Ashford Borough Council Renewable Energy Planning Guidance Note 2: The Development of Large Scale >50Kw Solar PV Arrays (2013)

APP3.14	Kent Downs AONB Management Plan (2021 – 2026)
APP3.15	Overarching National Policy Statement for Energy (EN-1)
APP3.16	National Policy Statement for Renewable Energy Infrastructure (EN-3)
APP3.17	International Paris Agreement 2016
APP3.18	Ashford Borough Council's Landscape Character Supplementary Planning Document (2011)
4 Landscape and Visual	
APP4.1	Landscape Institute and Institute of Environmental Management and Assessment – Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
APP4.2	National Landscape Character Areas [Extracts] – NCA 119, NCA 120, NCA 121 and NCA 123
APP4.3	Kent County Council (2004) The Landscape Assessment of Kent
APP4.4	Jacobs (2009) Rural Fringes Landscape Character Assessment for Ashford Borough Council
APP4.5	Studio Engleback (2005) Urban Fringes Landscape Character Study for Ashford Borough Council [Extracts]
APP4.6	Kent Downs AONB Landscape Character Assessment Update 2020 (Revised and Published 2023) [Extracts]
5 Heritage	
APP5.1	Historic England's GPA3 The Setting of Heritage Assets (2017)
APP5.2	CiFA Standards and Guidance for Historic Environment Desk Based Assessments (2020)
6 Archaeology	
APP6.1	CiFA Standards and Guidance for Geophysical Survey (2020)
7 Ecology and Ornithology	
APP7.1	Miguet et al., 2013
APP7.2	Browne et al., 2000
8 Planning Appeal Decisions and Court Judgments	
APP8.1	<i>Bedford Borough Council v Secretary of State for Communities and Local Government & Nuon UK Ltd</i> [2013] EWHC 2847 (Admin)
APP8.2	<i>The Forge Field Society and others v Sevenoaks District Council</i> [2014] EWHC 1895 (Admin)
APP8.3	<i>R (James Hall and Company Ltd) v City of Bradford MDC</i> [2019] EWHC 2899 (Admin)
APP8.4	Cutlers Green Lane appeal decision (APP/C1570/W/23/3319421)
9 Legislation	

APP9.1	Conservation of Habitat and Species Regulations 2017 (as amended)
APP9.2	Town and Country Planning (Environmental Impact Assessment) Regulations 2017
APP9.3	Climate Change Act 2008

Appendix 2: Expert Consultants' Experience

Kay Hawkins - Qualifications and Experience

1. The LVIA expert consultant, Kay Hawkins, is a Chartered Landscape Architect and member of the Landscape Institute (CMLI). She has a BSc (Hons) in Ecology from the University of Lancaster (1982) and a post-graduate Bachelor in Landscape Design (BLD) from the University of Manchester (1986). She is a Supervisor for candidates on the Landscape Institute's Pathway to Chartership and has been an Examiner and Assessor for the Institute's Professional Practice examinations since 1996.
2. Kay has over 38 years' experience in the design, assessment, management and implementation of environmental and development projects in the rural, urban and marine environments throughout the UK. These have included renewable energy projects, projects for the water industry, infrastructure projects, residential, leisure and recreational developments, industrial and commercial developments, land remediation schemes, waste management, mineral extraction and agriculture. She has worked with private and public sector clients, both in support of and in opposition to development proposals.
3. She has been undertaking landscape and visual impact assessments (LVIAs) since before the implementation of the original UK Environmental impact Assessment (EIA) Regulations in 1988 and has developed a particular expertise in EIA and the assessment of effects on landscape, seascape, visual amenity and heritage assets. She has managed teams of experts undertaking EIAs, has prepared site selection and feasibility studies, screening and scoping reports and has undertaken consultations with government departments, planning authorities, statutory and non-statutory consultees and the public. She has undertaken, managed and directed the production of landscape, seascape, visual, cumulative and cultural heritage assessments. She has also produced written representations, hearing statements and proofs of evidence and presented evidence at examinations in public (EiPs), hearings and public inquiries for 62 appeals throughout the UK.
4. Based on the guidance on LVIA for England, Wales, Scotland and Northern Ireland, and on her professional judgement and experience, she has developed an approach to and methodologies for LVIA and cumulative LVIA (CLVIA) which she uses to assess the likely effects of various types and scales of development projects (both EIA and non-EIA). These methodologies have been regularly updated to ensure compliance with evolving guidance and have been rigorously tested by their use in planning applications and appeals.
5. She has also been involved in various research projects, policy and good practice guidance documents relating to EIA, LVIA, CLVIA, photography and visualisations, and has presented papers at conferences, seminars and on university courses.
6. Alongside her consultancy work, she was a part-time module tutor for the BA and MA landscape design courses at University of Gloucestershire (2017 - 2020) and a visiting lecturer on the MA landscape architecture course at Birmingham City University (2016 - 2019), teaching professional practice and landscape planning. She also trained as an Examining Authority for National Strategic Infrastructure Projects and was appointed to The Planning Inspectorate's pool of Appointable Persons in 2016.

7. Kay has been undertaking LVIA's and CLVIA's for renewable energy schemes and enabling projects since 1993. These have included wind farms (both on and offshore), single wind turbines, solar farms, battery energy storage systems (BESS), micro-hydro schemes and anaerobic digestion plants.
8. Kay has assessed the landscape, visual and cumulative issues for a number of proposed solar farms over the last 10 years. She produced LVIA's for proposed 5MW solar schemes in Derbyshire, Cheshire and Powys (which went on hold in 2015) and presented LVIA evidence for a proposed 36MW solar farm in Monmouthshire (appeal upheld in 2022). She produced LVIA's for a < 50MW solar farm in Nottinghamshire in 2021-22 (permitted in 2023) and for another in the East Riding of Yorkshire in 2022-23 (currently in planning). She technically reviewed the LVIA for a proposed solar farm on the Isle of Wight in 2022 and drafted the LVIA section of the Statement of Case in 2023. She is currently producing LVIA's for proposed solar farms in North Yorkshire and South Yorkshire.
9. Her involvement in the proposed East Stour Solar Farm commenced in September 2023, when she visited the site with the landscape consultant who had produced the LVIA in ES Chapter 11 and discussed the mitigation measures, the effects of the scheme on landscape and visual amenity and potential cumulative effects with the proposed Stonestreet Green Solar project (which had not been submitted to PINS at that time). She provided the method of assessment (included in SEI Appendix 11.1) and advised on the approach to be taken in the CLVIA (undertaken by the landscape consultant and included in SEI Chapter 11), additional mitigation measures (some of which were included in the revised Mitigation Proposals Plan, SEI Figure 11.9 Revision A) and the locations of the cross-sections (provided as SEI Figures 11.14 - 11.24).
10. She has since reviewed all relevant documents pertaining to the landscape, visual and cumulative effects of the proposed development, other permitted developments in the study area and also the most recent documents submitted to the Planning Inspectorate for the proposed Stonestreet Green Solar project.

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Name	Job Title
Rob Bourn BA MA MCIfA	Managing Director

Date
August 2024

Qualifications

BA(Hons) Archaeology & Prehistory
MA Environmental Planning
Member of the Chartered Institute for Archaeologists

Career Profile

2015—date	Managing Director, Orion Heritage
2002—2015	Director, CgMs
2001—2002	Associate Director, CgMs
2000—2001	Archaeological Consultant, CgMs
1995—2000	Senior Archaeologist, Babbie Group
1989—1994	Directed and supervised archaeological excavations and evaluations across the UK for various archaeological contractors

Relevant Experience

Rob is the Managing Director and co-founder of Orion Heritage. He is a leading expert on development and planning related heritage issues and has extensive experience advising developers, planning consultants and landowners on a wide range of developments across the UK. Rob provides advice on all stages of the promotion and construction of proposed developments from land acquisition/due diligence, through the design and planning application (both outline and detailed) process to the discharge of archaeological and historic building conditions. This work routinely involves the production of desk-based assessments and historic environment ES chapters, negotiations with local planning authorities, the costing and management of archaeological investigations and heritage expert witness at public inquiry.

Project Examples

Land off Coate Road, Aston, Oxfordshire

Client: Terra Strategic/Hayfield Homes

Key Issues: Rob was the heritage expert witness for the public inquiry following refusal on heritage and other grounds. Orion had undertaken all the heritage assessments for the outline application which concluded that there was some low level less than substantial harm to a church and conservation area. The Inspector upheld the appeal agreeing that the harm to the significance of the two designated assets was outweighed by the public benefit of the scheme.

Land at South Marston (part of the Swindon North Eastern Villages Expansion area)

Clients: Hallam Land Management, Taylor Wimpey, Vistry & Hannick Homes

Key Issues: Large residential extension (2380 homes) to Swindon. Work comprised baseline conditions assessment for both archaeology and built heritage, procuring and managing multiple phases of geophysical survey and evaluation trenching, production of the heritage ES chapter, extensive consultation with Wiltshire Co8uncil and Swindon Borough Council & agreement of scope of archaeological mitigation work with Wiltshire Council.

Current on-going work at South Marston is the management of large scale programme of archaeological mitigation excavation with a multi-million pound budget ahead of construction commencing.

Selbrigg Wind Turbine, Baconsthorpe, Norfolk

Client: Selbrigg Wind Generation

Key Issues: Single turbine within the setting of Baconsthorpe Castle which is a scheduled monument and a grade I listed building and associated grade II Tithe Barn. Work comprised a setting assessment and heritage impact assessment to support the planning application. The adverse impact on the significance of the castle and tithe barn was a reason for refusal. Rob was the heritage expert witness for a conjoined appeal (public inquiry) with another single wind turbine within the setting of the castle. The Inspector upheld the appeal agreeing that the harm to the significance of the two designated assets was outweighed by the public benefit of both of the wind turbines.

Bloys Grove Solar Farm, Swainsthorpe, Norfolk

Client: EDF Renewables

Key Issues: A 49.9MW solar farm. The site had the potential for archaeological remains and was also in the vicinity of a number of listed buildings and Conservation Areas. Rob undertook the built heritage and archaeology baseline conditions assessment, managed the geophysical survey of the site, produced the heritage ES chapter and undertook extensive consultation with the LPA and their archaeological advisor. Consent granted with an archaeological condition. Orion is managing the on-going implementation of the mitigation programme of works.

Tye Lane Solar Farm, Bramford, Suffolk

Client: EDF Renewables

Key Issues: A 49.9MW solar farm. The site had the potential for archaeological remains and was also in the vicinity of a number of listed buildings. Rob undertook the built heritage and archaeology baseline conditions assessment, managed the geophysical survey of the site and a targeted archaeological evaluation trenching programme of remains identified in the geophysical survey, produced the heritage ES chapter and undertook extensive consultation with the LPA and their archaeological advisor. Consent granted with an archaeological condition. Rob has just completed the management of a large programme of archaeological mitigation and excavation.

Land off Carr Road, Deepcar, South Yorkshire

Client: Hallam Land Management

Key issues: Rob was the heritage expert witness at the appeal (public inquiry) for the refusal of outline permission for an 85 unit residential scheme. Permission was refused, in part, due to the effect on the setting and significance of two immediately adjacent listed former farmhouse and barn (separated listed grade II). As well as being expert witness, Rob also provided design advice to reduce the effect on the significance of the two designated assets. The Inspector agreed with Rob's argument that the proposed development would result in a less than substantial harmful effect on the two listed buildings and that the harm was outweighed by the public benefit of the scheme. The Inspector upheld the appeal.

Mark Gash MCIEEM (Director)

PROFESSIONAL INFORMATION

Current status:Independent Ecological Consultant

Main Responsibilities:

- Director / Principal Consultant
- Ecological fieldwork, specialising in protected species
- Ecological appraisals, impact assessments and management plans
- Contract and project management, team coordination including project resourcing, training, health and safety, quality assurance and staff management
- Reporting including data analysis, presentations,
- Business and project management
- Business generation, client liaison and relationship management

Ecological Survey and Assessment Skills

- Survey design, manage, lead and report to UK CIEEM standards:
- Preliminary Ecological Appraisal (Phase 1+)
- Lead surveyor: Detailed species surveys (Phase 2) for bats, Great Crested Newt and other amphibians, Hazel Dormouse, reptiles, Badger, Otter, Water Vole and other mammals.
- Licensed Great Crested Newt, Barn Owl and Hazel Dormouse surveyor
- General survey skills (field assistant) for other UK protected species
- International ornithological and ecological surveys and assessment
- Mitigation licence preparation and project management
- Data flow and management incl. digital field data collection
- CRA
- EIA chapters, AA, HRA and CHA

RELEVANT QUALIFICATIONS AND EMPLOYMENT

- BSc (Hons) Ecology, Leeds University 1995-98
- Principal Consultant & Director of Turnstone Ecology - Aug 2010 - Present
- RSK, Senior Ecologist - Jul 2007 – Aug 2010
- Penny Anderson Associates, Ecologist - March 2006 – July 2007
- Derbyshire County Council, Senior Ranger - Feb 2002 – March 2006
- Nottinghamshire County Council, Ranger - Feb 2000 – March 2002

OTHER QUALIFICATIONS, MEMBERSHIPS AND POSITIONS HELD:

- Full member of the CIEEM (2007 – present)
 - Dormouse – NE and NRW Level 2 survey Licence
 - Great crested newt NE and NRW Level 1 Survey Licence
 - Schedule 1 Barn Owl Licence England and Wales
 - PTS certified
 - ROLO Certificate
-

KEY PROJECT EXPERIENCE



Mark has been involved in a wide variety of renewable projects in the UK. Roles have included project management, senior ornithologist and field surveyor on a wide variety of projects. Pre-public enquiry experience including successful removal of NE and RSPB objections.

Wind Farm – Scotland (2016 to date) - Lead ornithologist responsible for completing Collision Risk Modelling & Assessment and Ornithology and Terrestrial Ecology EIA Chapter for a large wind farm in Scotland.

Wind Farm – Site Confidential (North East England), 12 On-Shore Wind Farms in England and medium sized project in Scotland (2009 – to date)

Ornithologist for various wind farm projects in England. Responsible for completion of vantage point, breeding and winter bird surveys, completion of Collision Risk Modelling, analysis and reporting of results as well as providing high-level advice in relation to possible impacts on European Designated Site.

Orkney (2011 – 2013)

Managing three small wind energy projects in Orkney; co-ordination of field teams, collation and interpretation of data, EIA and Collision Risk Analysis.

Frodsham Wind Farm (2007 – 2011)

57MW wind farm project in the north-west of England. Project manager and lead ecologist organising field surveys, data collection, analysis and reporting including ornithological impact assessment, addendums, HRA/AA, mitigation documents and Supplementary Information Reports including a literature review in to displacement distances. Consultation with Natural England and the RSPB resulting in successfully removing their objection to the scheme. Mark was involved in all pre- public inquiry works including preparation of proof of evidence and meetings with the project's QC.

Whitton Wind Farm, Scotland (2009)

Project manager for Phase 2 ecology (botanical and vertebrate) surveys at Whitton Wind Farm.

Confidential Project, England (2014 – 2015)

Project manager and Lead Ornithologist for a large proposed tidal lagoon project in England. Responsibilities include completing fieldwork including coordinating large field teams, reporting and assessment.

Power from the Mersey (2006 – 2009)

Project manager and lead ornithologist of large scale project including coordination of large field team for the feasibility studies. Reporting and analysis of the results and contribution to project meetings with advisory groups, regulators, clients and technical specialists and to a draft (shadow) HRA.



Mark has managed and contributed to a number of key strategic infrastructure projects in the UK. This has included gas storage site, pipeline surveys, over-head power line upgrade and surveys and assessment at a nuclear power station

Isle of Grain, Kent

During his time at RSK, Mark worked for three key clients; National Grid Grain LNG, EON and the OPA, on this site in Kent. Mark was the lead project manager for these projects as well as Senior Ecologist responsible for protected species surveys, Water Vole, reptile and Great Crested Newt translocations.

Various

4 major infrastructure projects in the east and north east of England in areas of European protected sites; all projects were successfully granted planning permission after survey and reporting including EIA and Supplementary Reports to provide information to the competent authorities to negate the need for Appropriate Assessment.

Teesside (2008-2010)

Lead ecologist/ornithologist roles on a gas pipeline (landfall) in Teesside requiring EIA. Site was within and adjacent to SPA and SSSI and planning permission was successfully granted.

Wylfa Nuclear Power Station (2007 – 2009)

Project manager for an ecological impact assessment (EcIAd) of decommissioning of a nuclear power station in Anglesey; project management, attendance and project meetings, co-ordination of surveys, reporting and assessment including writing the EIA.

Wrexham Link Road (2010-2011)

Ecological services for a new link road in Wrexham including, Badger, Great Crested Newt and reptiles, bat emergence surveys and provision of a bat European Protected Species Licence agreed by CCW in order to allow the development to take place.

National Grid upgrade, Cumbria (2012) and Cheshire (2011)

Co-ordination and completion of Great Crested Newt surveys across Lancashire and Cumbria (2012) and Staffordshire and Cheshire (2011) on behalf of National Grid. Both projects were long linear projects and involved surveys along a corridor of approximately 50km.



Mark has been involved in a number of commercial and residential projects in the UK carrying out a variety of surveys including Phase 1 survey, bat (initial, activity and watching briefs), reptile, Badger, Water Vole and Otter, bird (CBC, BBS, winter birds, vantage point), Dormouse and Great Crested Newt.

Housing Development – Various (2003 – to date)

Management and lead ecologist roles on a large number of projects ranging from small private single dwelling developments to large scale multi-home developments. Responsibilities include Preliminary Ecological Appraisal, Preliminary Roost Assessment, Phase 2 ecology surveys including bats, Great Crested Newt, Dormouse, Otter, Water Vole, Badger and reptiles, assessment and reporting including Environmental Impact Assessment. Other duties have included planning, coordinating and supervising mitigation measures including trapping and translocation of reptiles and amphibians and supervising bat mitigation measures.

Rampton Hospital (2011 – to date)

Four demolition and or re-development projects within the grounds of Rampton NHS Hospital. Co-ordination and completion of bat and newt surveys, collation of results, analysis, reporting and licence application.



Technical Review and Guidance Production Experience

Completed the 2015 review of the ecology sections of **the IFC EHS Wind Energy Guidelines** specifically the ornithology and ecology sections of the document in relation to both onshore and offshore wind farms. Tasks included review of the 2007 Guidelines, review of consultee comments and rewriting of revised Guidelines for wind farm survey and assessment in relation to the IFC Equator Principles and International Best Practise for wind energy projects.

In 2011 we were commissioned by the Polish Wind Energy Association (PWEA) to critique the draft **National Ornithological Survey and Assessment Guidelines for EIA** for proposed wind farms in Poland. On completion of the commission Turnstone Ecology were invited by the PWEA to present a discussion paper at the annual Wind Energy Forum.



Wind Energy Project Experience

Canadon Leon Wind Farm, Argentina (2019 to date)

Lead Ecologist responsible for the Due Diligence and Gap Analysis for a wind farm project in southern Argentina to ensure compliance with International Standards, identifying gaps in survey work and assessment and provision of recommendations for further ecological survey and assessment as well as updates to mitigation and longer-term monitoring strategies.

Mexico Projects Portfolio (Wind and Solar) E&S Due Diligence (2019 to date)

Review of 723 MW of onshore wind and solar photovoltaic projects against International Standards, identifying gaps in compliance and providing recommendations / actions for improvement with regard to avifauna and biodiversity.

Ukraine (2018 to date)

Project Manager for one project in southern Ukraine as well as lead ecologist on a further three projects. Responsible for set-up and audit of in-country surveys (birds, bats and terrestrial ecology), audit of data and production of species reports and EIA chapters.

Saudi Arabia (2017 to date)

Lead Ecologists responsible for ecological scoping survey of proposed wind farm and subsequent species-specific surveys, including bird vantage point and bat transect surveys.

Confidential, Kenya (2017 to date)

Lead Ecologist on 50MW wind farm responsible for production of Ecology chapter of EsIA as well as set up of full suite of ornithology and wider ecology surveys. Responsibilities include selection of Vantage Points and survey transects, training and audit of in-country ornithologists and regular audit and analysis of survey data.

Tenaga Wind Farm, Pakistan (2014 to date)

Assistant Project Manager for a 50MW wind farm in Pakistan. Responsibilities included day to day management of the project, document review and providing updates to the client / client team.

Tsetsii Wind Farm, Mongolia (2014 to date)

Lead ecologist / ornithologist for the second wind farm project in Mongolia. Completed ecology field visit in October 2014 to undertake Phase 1 Ecology and vertebrate inventory surveys to inform baseline and need for further ecological survey. Devised protocol for further ecological survey including detailed ornithological field surveys and audited data collected by in-country field teams. Completed draft ESIA including Collision Risk Modelling and Assessment. Final ESIA, including Critical Habitats Assessment completed in 2016.

Project Martel, France (2014)

Lead Ecologist and project manager for a review of a bat and bird monitoring protocol document.

Silute Wind Farm, Lithuania (2014 – to date)

Lenders Technical Assistant (LTA) role for a wind farm in Lithuania. Responsible for completing a Due Diligence exercise and providing technical advice for proposed wind farm in Lithuania. The wind farm is now operational. Site audits have been completed in 2015 & 2017 and ongoing responsibilities include document review, writing of operational monitoring protocols, liaison with the Lenders. Further site visits will be completed in 2018.

Sakhit Wind Farm, Mongolia (2013)

Ecologist advice for the first wind farm project in Mongolia. Assisted with elements of ecological assessment including analysis of bat data and assessment of collision impact on target species.

Fujeij Wind Farm, Jordan (2013 – to date)

Responsible for a high-level review of existing ecological information and advising lenders as part of the Lenders Technical Assistant (LTA) panel.

Proposed Wind Farms, Malawi (2013 – 2014)

Responsible for completing a high-level desk study as part of a feasibility study for two proposed wind farms in Malawi. This study also included devising a survey protocol and methodologies to gain robust baseline ecological information for the sites to enable a full Environmental Impact Assessment to be completed.

Tafila Wind Farm, Jordan (2012 – to date)

Lead ornithologist responsible for the project involvement by Turnstone Ecology. Initially commissioned as an Independent Ornithological / Ecological Expert to review a Draft ESIA and associated survey reports. Following our review recommendations were made regarding spring migration surveys and were subsequently commissioned to complete fieldwork to assist in collation of a robust data set to allow an accurate prediction of likely ornithological impacts to be made to satisfy international lenders. Responsible for input and review of ESIA, ESMMP, and ESAP which also included detailed review of the Collision Risk Assessment. Wrote

detailed mitigation, and construction and operational monitoring protocol for the project sufficient to satisfy the lenders requirements (assessed against EU Habitats Directive and Equator Principles). Since 2015 I have completed ESIA audit visits and regularly audit monitoring protocol documents and audit reports.

India Wind Farm (2012 – to date)

Lead ecologist responsible for gap analysis and review of ESIA and other supporting documents.

Romania – Various (2011 – to date)

Independent Ornithological Expert (IOE) for 282 MW wind farm project. Review and gap analysis of the ornithology chapter and technical appendices, field visit, training and audit of in-country field teams and completion of a CRA using the Band Model.

Mirovci Wind Farm, Bulgaria (2010 – 2012)

IOE for 175MW wind farm project in north-east Bulgaria.

Kavarna Wind Farm, Bulgaria (2008 – 2010)

Project manager and IOE for 156MW project in north-west Bulgaria. Gap analysis and CRA of existing field data and in-country public disclosure exercise on behalf of the EBRD, IFC and AES. Coordination of survey effort (spring and autumn migration, breeding and winter birds), training and audit of field teams provided by the Bulgarian Academy of Sciences. The overall project was awarded Sustainability Deal of 2009 by EMEA Finance Magazine.

Bulgaria – Various (2008 – 2010)

Gap analysis and supplementary reporting exercises for three proposed wind farms in Bulgaria.



Solar (PV) Project Experience

Solar PV, Saudi Arabia (2018)

Project Manager and Lead Ecologist for four Solar PV parks in Saudi Arabia. Responsible for completing fieldwork and writing assessment documents.

Paradise Park, Jamaica (2017)

Project Manager for a proposed Solar Park in Jamaica. Responsibilities included day to day running of the project and document review.

Proposed PV Project, Jordan (2014)

Lead Ecologist completing high-level Due Diligence review of associated project documents.

South Africa (2013)

Responsible for high level review and assessment against IFC EP standards of ESIA documents for two large proposed PV projects seeking international funding.

Srem, Bulgaria (2009)

Lead Ecologist and Project Manager for a 56 ha PV project in southern Bulgaria in a European designated site; Sakar IBA. Gap analysis and due diligence exercise. Completion of terrestrial ecology and ornithological field surveys including specific raptor surveys. Responsible for collation, analysis and reporting of the field surveys to the satisfaction of the client and lenders.



Infrastructure Project Experience

Pipeline, Russia (2013 – to date)

Senior ecologist involved in carrying out fieldwork (breeding bird, reptile, amphibian and invertebrate surveys on site), supervision and consultation with in-country botanical and terrestrial ecology specialists including surveys for the Critically Endangered Nikolski's Tortoise. Chaired an in-country meeting with ecological specialists and was responsible for writing ecology sections of the ESIA including a Critical Habitat Assessment.

Zaporizhzhia-Kakhova Transmission Line (2010)

Senior ecologist on an EBRD funded 180 km, 750 Kv over-head line upgrade connecting an existing Nuclear Power Station with a proposed substation as well as two 330 Kv diversions.

Abu Dhabi Airport Management Strategy (2008 – 2010)

Production of Management Plans using CAA CAP772 guidelines for continued operation of four international airports in Abu Dhabi.



Gash, M., and Collins, J. (2010) *Ecological impacts of wind farms*. Editorial for the Environmentalist, Issue 97, May 2010.

Hawley, G., Anderson, P., Gash, M. *et al.* (2008) *Impact of heathland restoration and re-creation techniques on soil characteristics and the historical environment*. Natural England Research Report NERR010 (Peterborough: Natural England).



Steven Longstaff

Director



Professional Qualifications

BA (Hons) Geography, Northumbria University, 2007

MSc Town Planning, University of Newcastle, 2009

MRTPI - Member of the Royal Town Planning Institute, 2011

Selected Experience

- Lead planning consultant on various battery energy storage and solar schemes for a number of developers across England.
- Preparation of Planning Statements and Green Belt Assessments for 49.9MW solar farms in Rotherham, Cambridgeshire, and Nottinghamshire.
- Represented large chemical company at Warrington Local Plan Examination alongside Eversheds Sutherland.
- Represented multi-national oil company at Wirral Local Plan Examination alongside Eversheds Sutherland.
- Planning consultant on successful appeal for affordable housing scheme considered by way of an Informal Hearing.
- Lead planning consultant on various large scale residential developments on behalf of national housebuilders including Miller Homes, Taylor Wimpey, Bellway, and Home Group.
- Planning advisor on strategic residential development in Darlington.
- Planning advisor on various private hospitals in Middlesbrough, Chorley, Kettering and Stafford.
- Lead planning consultant on a number of affordable housing developments in Cambridge acting for Cambridge Investment Partnership.
- Planning advisor on the redevelopment of the Park Street Car Park to provide a 227 bed aparthotel with underground car park.
- Represented national housebuilders at various Local Plan Examinations across the north.
- Planning advisor on the redevelopment of Grade I Listed Hall in Middlesbrough to provide office, wedding and conference venue along with new private hospital.

About Steven

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Steven has over 15 years' experience and has been involved in a wide range of projects since joining ELG Planning in 2007. He continues to act for a variety of clients including renewables developers, national housebuilders, developers, contractors and private individuals.

In recognition of his contribution to the business, Steven was appointed to ELG's board of Directors in January 2020

Appendix 3: Appellant's Development Plan Policy Assessment

Development Plan Policy Assessment

- 1.1 Paragraph 7.2 of the Appellant's Statement of Case sets out the Development Plan¹ policies relevant to the determination of this appeal. The Appellant's assessment of the development proposals against these policies is set out below.
- 1.2 This assessment adopts the defined terms set out within the Appellant's Statement of Case.

Ashford Local Plan (2019)

Policy SP1: Strategic Objectives

- 1.3 Policy SP1 outlines the Council's strategic objectives to deliver the vision for the Borough outlined in the Local Plan. Of particular relevance to the Proposed Development is objective i which seeks to promote development that minimises natural resources and energy use.
- 1.4 It is considered that the proposals meet the Council's strategy objectives and therefore the requirements of Policy SP1.

Policy SP6: Promoting High Quality Design

- 1.5 Policy SP6 advises that development proposals must be of high quality design and demonstrate a careful consideration of and a positive response to each of the following design criteria:
- a) Character, distinctiveness and sense of place
 - b) Ease of movement
 - c) Legibility
 - d) Mixed use and diversity
 - e) Public safety and crime

¹ Ashford Borough Local Plan, adopted February 2019, and the Kent Minerals and Waste Local Plan 2013-30, adopted September 2020.

- f) Quality of public spaces and their future management
- g) Flexibility and liveability
- h) Richness in detail
- i) Efficient use of natural resources

1.6 Although cited in the first Reason for Refusal, it is clear from the wording that Policy SP6 is more relevant to built development proposals. The application of design standards to a solar farm are not strictly apposite as it is the site topography and its context which determine whether a design for a solar farm is acceptable.

1.7 It is therefore considered that the proposals do not conflict with Policy SP6.

Policy TRA7: The Road Network and Development

1.8 Policy TRA7 outlines a number of criteria which need to be considered when assessing development proposals from a highways perspective.

1.9 Policy TRA7 is cited in the third Reason for Refusal. The Council's concern relates to insufficient information being provided regarding the management of construction vehicles during the construction phase of development. No other conflict with Policy TRA7 or other highways related issues are raised in the Reason for Refusal. As set out in the Appellant's Statement of Case, the issues raised by the Highways Authority have either already been addressed as part of the ES assessment or are capable of being managed through the CTMP and an associated planning condition.

1.10 It is therefore considered that the Proposed Development fully complies with the requirements of Policy TRA7.

Policy TRA8: Travel Plans, Assessments and Statements

1.11 Policy TRA8 advises that planning applications should be supported by either a Transport Statement or a Transport Assessment depending on the nature and scale of the proposal and the level of significant transport movements generated. The ES submitted with the planning application includes a chapter on Traffic and Access and no issues were raised about the suitability of the document and meeting the requirements of Policy TRA8.

Policy ENV1: Biodiversity

- 1.12 Policy ENV1 advises that proposals that conserve or enhance biodiversity will be supported. It states that proposals should safeguard features of nature conservation interest and should include measures to retain, conserve and enhance habitats.
- 1.13 It then continues by advising where harm to biodiversity assets cannot be avoided, appropriate mitigation will be required in line with a timetable to be agreed with the Local Authority. Normally, any mitigation measures will be required to be delivered on-site, unless special circumstances dictate that an off-site model is more appropriate.
- 1.14 Reason for Refusal 4 refers to Policy ENV1 and advises that insufficient information has been provided regarding mitigation and enhancement measures for badgers, breeding birds and brown hare. No other issues are raised and it is therefore understood that the Council is not raising issues with any other elements of the submitted Ecological Assessment.
- 1.15 As demonstrated in the Statement of Case, the issues raised by the KCC EAS and request for further information have been addressed in the Supplementary Ecology information document (**APP1.22**). This document, alongside the Appellant's Statement of Case, shows that it has been satisfactorily demonstrated that the Proposed Development would not have a harmful effect on ecology. The proposed mitigation measures can be secured through planning conditions as suggested in the Appellant's Statement of Case.
- 1.16 The Proposed Development therefore accords with the requirements of Policy ENV1.

Policy ENV3a Landscape Character and Design

- 1.17 Policy ENV3a: Landscape Character and Design, sets out a series of landscape characteristics that development proposals within the borough must have regard to, which include landform and drainage patterns, trees and woodlands, field boundaries, the pattern and distribution of settlements, roads and footpaths, guidance in the

Landscape Character SPD, and any features that are important and contribute to local landscape character. As discussed in paras 11.101 – 11.102 in ES Chapter 11 (**APP1.8.2**), no trees or hedgerows would be removed, there would not be any changes to the pattern and distribution of settlements, roads and footpaths and no important landscape components would be affected by the Proposed Development. Furthermore, the proposed mitigation planting would reinforce and strengthen the existing landscape fabric and landscape components within the Site.

- 1.18 The development proposals comply with Policy ENV3a.

Policy ENV5: Protecting Important Rural Features

- 1.19 Policy ENV5 states that all development in rural areas shall protect and, where possible, enhance the following features, which include: d) public rights of way and e) landscape features that help to distinguish the character of the local area.
- 1.20 With regards to footpaths, none of the public rights of way on the Site would be physically changed and, although there would be significant effects on the visual amenity of walkers on some sections of some of the footpaths, there would also be alternative permissive routes which could be taken if walkers preferred not to walk through the Site. All landscape features on the Site (such as mature hedgerows or trees) would be protected and most would be enhanced by the mitigation measures proposed. The distinctive outline of Bested Hill, which could be considered a landscape feature of the Site, would be masked for the duration of the Proposed Development but these effects would be reversed once the Proposed Development is decommissioned.

- 1.21 The Proposed Development complies with Policy ENV5.

Policy ENV6: Flood Risk

- 1.22 Policy ENV6 advises that development will only be permitted where it would not be at an unacceptable risk of flooding on the site itself and there would be no increase of flooding elsewhere.
- 1.23 The drainage assessment sets out that the whole of the Site development area has been set at above 51.3m AOD in agreement with the Environment Agency to minimise risk of fluvial flooding in Flood Zone 2. To reduce the risk of increased run off from the Site to receptors off-site, extensive planting on-site and a Sustainable Urban Drainage System, linked to new swales to contain surface water run-off will be employed.
- 1.24 No objections were received to the Proposed Development from the Environment Agency or Lead Local Flood Authority.
- 1.25 The Proposed Development complies with Policy ENV6.

Policy ENV9: Sustainable Drainage

- 1.26 Policy ENV9 relates to sustainable drainage and advises that all development should include appropriate SUDs for the disposal of water in order to avoid any increase in flood risk or adverse impact on water quality. Paragraph 178 of the Officer's Report (**APP1.19**) confirms:

“Although no significant increase in surface water runoff is anticipated as a result of the solar array, the application also includes an outline drainage strategy featuring unconnected swales as a precautionary measure to capture run-off and provide attenuation as well as additional planting. I concur with the LLFA that subject to planning conditions to secure a detailed surface water drainage scheme and verification report there would be no significant effects on drainage and the development would comply with the requirements of Policies ENV6 and ENV9 of the ALP.”

- 1.27 The Proposed Development complies with Policy ENV9.

Policy ENV10: Renewable & Low Carbon Energy

- 1.28 Policy ENV10 advises that planning applications for proposals to generate energy from renewable and low carbon sources will be permitted provided that the development proposals meet the following criteria.

Requirement	Comment
<i>a) The development, either individually or cumulatively does 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, Conservation Areas and Listed Buildings</i>	The Appellant's Statement of Case considers these issues in detail.
<i>b) The development does not generate an unacceptable level of traffic or loss of amenity to nearby residents (visual impact, noise, disturbance, odour)</i>	As demonstrated by the planning application and the Appellant's Statement of Case submitted with this appeal, the development does not generate an unacceptable level of traffic or loss of amenity to nearby residents by virtue of visual impact, noise, disturbance or odour.
<i>c) Provision is made for the decommissioning of the infrastructure once operation has ceased, including the restoration of the site to its previous use</i>	This will be dealt with by a suitably worded condition.
<i>d) Evidence is provided to demonstrate effective</i>	Full public consultation and engagement was undertaken with the local community. Pre-

<i>engagement with the local community and local authority</i>	application discussions along with EIA screening and scoping.
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- 1.29 For the reasons summarised above and outlined in detail in the Appellant’s Statement of Case, it is considered that the Proposed Development does not conflict with Policy ENV10 as a whole.

Policy ENV13: Conservation and Enhancement of Heritage Assets

- 1.30 Policy ENV13 sets out the tests upon which proposals which may affect the significance of heritage assets are to be assessed and follow those set out in NPPF. It states:

“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.”

- 1.31 The Appellant’s Statement of Case comprehensively addresses the requirements of this policy and it has been established that there would be limited less than substantial harm to the significance of the Church of St Martin and Court Lodge Farm. As such and in line with policy ENV13 and paragraph 208 of NPPF, the decision maker will need to balance the limited less than substantial harmful effect of the scheme against the public benefits of the scheme. The extensive benefits that would be delivered are outlined in detail in section 12 of the Appellant’s Statement of Case.

Policy ENV14: Conservation Areas

- 1.32 Policy ENV14 advises that development or redevelopment within conservation areas will be permitted provided such proposals preserve or enhance the character and appearance of its setting.
- 1.33 As set out in the ES, there is no intervisibility between the Site and the Aldington Conservation Area. The development proposals would therefore preserve the character and appearance of its setting and not conflict with Policy ENV14.

Policy ENV15: Archaeology

- 1.34 Policy ENV15, in relation to potential non-designated archaeological heritage assets, advises:
- “Where the assessment outlined in Policy ENV13 reveals that important or potentially significant archaeological heritage assets may exist, developers will be required to arrange for field evaluations to be carried out in advance of the determination of planning applications.”*
- 1.35 The combination of the HEDBA, geophysical survey and evaluation trenching provide a level of information that complies with paragraph 200 of the NPPF. That is, the surveys are of sufficient detail that is proportionate to the identified non-designated heritage assets’ importance and is more than sufficient to understand the potential impact of the Proposed Development on these archaeological remains.
- 1.36 The impact of the Proposed Development on the non-designated archaeological remains recorded within the Site will be minimal. A programme of archaeological mitigation works is proposed which can be secured by condition in the event that the appeal is upheld.
- 1.37 The Proposed Development complies with Policy ENV15.

Kent Minerals and Waste Local Plan 2013-30 (2020)

Policy DM7: Safeguarding Mineral Resources

- 1.38 Policy DM7 advises that, *“planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either:*
- 1. the mineral is not of economic value or does not exist; or*
 - 2. that extraction of the mineral would not be viable or practicable; or*
 - 3. the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or*







4. *the incompatible development is of a temporary nature that can be completed, and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or*
5. *material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or*
6. *it constitutes development that is exempt from mineral safeguarding policy, namely householder applications, infill development of a minor nature in existing built up areas, advertisement applications, reserved matters applications, minor extensions and changes of use of buildings, minor works, non-material amendments to current planning permissions; or*
7. *it constitutes development on a site allocated in the adopted development plan where consideration of the above factors (1-6) concluded that mineral resources will not be needlessly sterilised.*








Further guidance on the application of this policy will be included in a Supplementary Planning Document.”







- 1.39 As set out in detailed in the accompanying Mineral Safeguarding Assessment prepared by IC Planning (**APP1.23**), the Proposed Development is considered to meet criteria 2 and criteria 4 of Policy DM7 in that:
- Existing site constraints have effectively already sterilised a significant portion of the minerals resource indicated as being present on-site; and
 - The project seeks planning permission for a temporary 40-year period, following which the solar farm and its supporting infrastructure will be removed, this will remove of any constraint on the future mineral extraction.
- 1.40 As summarised above and set out in detail in the accompanying Minerals Safeguarding Assessment, the proposals meet two of the criteria set out in Policy DM7 and therefore comply with the policy.





Appendix 4: Table 10.1: Individual Effects on Landscape Character (in support of the Landscape and Visual Section of this Statement of Case)




Table 10.1: Individual Effects on Landscape Character

	Landscape Unit		Effects on Landscape Character				
SEI Fig	ZTV and fieldwork observations	Sensitivity In LVIA (in LCAs)	Construction Phase (9 months)	Operational Phase (1 – 10 years)	Operational Phase (10 – 40 Years)	Decommissioning Phase (<9 months)	Post-decommissioning
11.3	Ashford LCAs (rural fringe)						
	Evegata Mixed Farmlands (Site - northern parcel) (ZTV illustrates extent of visibility)	Medium/low (Low)	Short-term adverse, temporary, reversible (Not significant)	Medium-term adverse, temporary, reversible (Significant)	Long term adverse, temporary, reversible (Significant)	Short-term adverse, temporary, reversible (Not significant)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)
	East Stour Valley (Site – western, central and eastern parcels) (ZTV illustrates extent of visibility)	High/medium (High)	Short-term adverse, temporary, reversible (Not significant)	Medium-term adverse, temporary, reversible (Significant)	Long term adverse, temporary, reversible (Significant)	Short-term adverse, temporary, reversible (Not significant)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)
	Evegata Mixed Farmlands (west and south of site boundary) (ZTV suggests intervisibility but screened by woodland)	Medium/low (Low)	No effects	No effects	No effects	No effects	No effects
	Evegata Mixed Farmlands (east of site boundary) (ZTV suggests partial visibility but occupied by Sellindge Converter Stn)	Medium/low (Low)	No effects	No effects	No effects	No effects	No effects
	Evegata Mixed Farmlands (north of site boundary) (ZTV suggests intervisibility but screened by M20 embankment)	Medium/low (Low)	No effects	No effects	No effects	No effects	No effects
	East Stour Valley (northeast of site boundary) (ZTV suggests intervisibility but this area includes Sellindge Solar Farm and woodland)	High/medium (High)	No effects	No effects	No effects	No effects	No effects

	Landscape Unit		Effects on Landscape Character				
SEI Fig	ZTV and fieldwork observations	Sensitivity In LVIA (in LCAs)	Construction Phase (9 months)	Operational Phase (1 – 10 years)	Operational Phase (10 – 40 Years)	Decommissioning Phase (<9 months)	Post-decommissioning
	East Stour Valley (east of site boundary) (ZTV suggests partial visibility but screened by woodland)	High/medium (High)	No effects	No effects	No effects	No effects	No effects
	East Stour Valley (south of site boundary) (ZTV suggests partial visibility but partially screened by rolling terrain)	High/medium (High)	Within <0.38km: Short-term adverse, temporary, reversible (Not significant)	Within <0.38km: Medium-term adverse, temporary, reversible (Not significant)	No adverse effects. Long-term beneficial (due to maturing of mitigation planting) (Not significant)	No effects	Long-term beneficial (due to maturing of mitigation planting) (Not significant)
	East Stour Valley (west of site boundary) (ZTV suggests partial visibility but occupied by woodland)	High/medium (High)	No effects	No effects	No effects	No effects	No effects
	Aldington Ridgeline (ZTV suggests intervisibility but partial screening by intervening vegetation)	High/medium (High)	Short-term adverse, temporary, reversible (Not significant)	Medium-term adverse, temporary, reversible (Not significant)	Long-term adverse, temporary, reversible, (Not significant)	Short-term adverse, temporary, reversible (Not significant)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)
	Bonnington Wooded Farmlands (ZTV illustrates no intervisibility)	(Moderate)	No effects	No effects	No effects	No effects	No effects
	Brabourne Arable Farmlands (ZTV suggests very limited intervisibility, screened by vegetation)	(Moderate)	No effects	No effects	No effects	No effects	No effects
	Brabourne Farmlands (ZTV suggests very limited intervisibility, screened by vegetation)	(High)	No effects	No effects	No effects	No effects	No effects

	Landscape Unit		Effects on Landscape Character				
SEI Fig	ZTV and fieldwork observations	Sensitivity In LVIA (in LCAs)	Construction Phase (9 months)	Operational Phase (1 – 10 years)	Operational Phase (10 – 40 Years)	Decommissioning Phase (<9 months)	Post-decommissioning
	Brabourne Lees Hilly Farmlands (ZTV suggests intervisibility but screened by M20 embankment and intervening vegetation)	(Moderate)	No effects	No effects	No effects	No effects	No effects
	Old Romney Shoreline Settlements (ZTV illustrates no intervisibility)	(High)	No effects	No effects	No effects	No effects	No effects
	Royal Military Marshlands (ZTV illustrates no intervisibility)	(High)	No effects	No effects	No effects	No effects	No effects
11.3 Ashford LCAs (urban fringe)							
	Aldington Ridge (ZTV suggests very limited intervisibility, but largely screened by intervening vegetation)	Moderate/high	No effects	No effects	No effects	No effects	No effects
	Brabourne Lees Mixed Farmlands (ZTV suggests intervisibility but screened M20 embankment and intervening vegetation)	High	No effects	No effects	No effects	No effects	No effects
	Brabourne Vale (ZTV illustrates no intervisibility)	Moderate/high	No effects	No effects	No effects	No effects	No effects

	Landscape Unit		Effects on Landscape Character				
SEI Fig	ZTV and fieldwork observations	Sensitivity In LVIA (in LCAs)	Construction Phase (9 months)	Operational Phase (1 – 10 years)	Operational Phase (10 – 40 Years)	Decommissioning Phase (<9 months)	Post-decommissioning
	Mersham Farmlands (ZTV suggests very limited intervisibility, but screened by intervening vegetation)	Low to High	No effects	No effects	No effects	No effects	No effects
	Old Romney Shoreline Woodland Farmlands (ZTV illustrates no intervisibility)	Moderate/high	No effects	No effects	No effects	No effects	No effects
	Upper Stour Valley (ZTV suggests limited intervisibility, largely screened by intervening vegetation)	Low to High (Medium)	No effects over majority of LCA. Within 0.3 – 0.4km: Short-term adverse, temporary, reversible (Not significant)	No effects over majority of LCA. Within 0.3 – 0.4km: Medium-term adverse, temporary, reversible (Not significant)	No effects over majority of LCA. Within 0.3 – 0.4km: Long-term adverse, temporary, reversible (Not significant)	No effects over majority of LCA. Within 0.3 – 0.4km: Short-term adverse, temporary, reversible (Not significant)	No effects
11.2 Kent LCAs							
	Sellindge Plateau Farmlands (ZTV suggests intermittent intervisibility, but screened by intervening vegetation)	Not assessed	No effects	No effects	No effects	No effects	No effects
	Romney Marsh: Lympne (ZTV illustrates no intervisibility)	Not assessed	No effects	No effects	No effects	No effects	No effects
11.4 Kent Downs AONB LCAs							
	East Kent Downs (AONB) (ZTV suggests intermittent intervisibility along southern boundary,	(High)	No effects over majority of LCA. Intermittently along southern boundary:	No effects over majority of LCA. Intermittently along southern boundary:	No effects over majority of LCA. Intermittently along southern boundary:	No effects over majority of LCA. Intermittently along southern boundary:	No effects

	Landscape Unit		Effects on Landscape Character				
SEI Fig	ZTV and fieldwork observations	Sensitivity In LVIA (in LCAs)	Construction Phase (9 months)	Operational Phase (1 – 10 years)	Operational Phase (10 – 40 Years)	Decommissioning Phase (<9 months)	Post-decommissioning
	further screening by intervening vegetation)		Short-term adverse, temporary, reversible (Not significant)	Medium-term adverse, temporary, reversible (Not significant)	Long-term adverse, temporary, reversible, (Not significant)	Short-term adverse, temporary, reversible (Not significant)	
	Lympne Greensand Escarpment (AONB) (ZTV suggests limited intervisibility around Vps 8 and 13)	(High)	No effects over majority of LCA. Around Vps 8 and 13: Short-term adverse, temporary, reversible (Not significant)	No effects over majority of LCA. Around Vps 8 and 13: Medium-term adverse, temporary, reversible (Not significant)	No effects over majority of LCA. Around Vp 13: Long-term adverse, temporary, reversible, (Not significant)	No effects over majority of LCA. Around Vp 13: Short-term adverse, temporary, reversible (Not significant)	No effects
	Postling Scarp and Vale (AONB) (ZTV suggests intermittent intervisibility, further screening by intervening vegetation)	(High)	Short-term adverse, temporary, reversible (Not significant)	Medium-term adverse, temporary, reversible (Not significant)	Long-term adverse, temporary, reversible, (Not significant)	Short-term adverse, temporary, reversible (Not significant)	No effects
	Stour Valley (AONB) (ZTV suggests limited intervisibility along boundary with East Kent Downs, further screening by intervening vegetation)	(High)	No effects over majority of LCA. Along boundary: Short-term adverse, temporary, reversible (Not significant)	No effects over majority of LCA. Along boundary: Medium-term adverse, temporary, reversible (Not significant)	No effects over majority of LCA. Along boundary: Long-term adverse, temporary, reversible, (Not significant)	No effects over majority of LCA. Along boundary: Short-term adverse, temporary, reversible (Not significant)	No effects

Appendix 5: Table 10.2: Individual Effects on the Visual Amenity of Walkers on Public Footpaths (in support of the Landscape and Visual Section of this Statement of Case)

Table 10.2: Individual Effects on the Visual Amenity of Walkers on Public Footpaths

	Footpaths		Effects on Visual Amenity				
SEI Fig	ZTV and Fieldwork Observations	Receptor / Sensitivity	Construction Phase (9 months)	Operational Phase (1 – 10 years)	Operational Phase (10 – 40 Years)	Decommissioning Phase (<9 months)	Post-decommissioning
11.7	Revision A: Public Rights of Way						
	Footpath AE432 (from Station Road, past Park Wood Cottage and across northern parcel of Site) (ZTV illustrates extent of visibility of northern parcel of Site)	Walkers / High/medium	Short-term adverse, temporary, reversible (Significant)	Medium-term adverse, temporary, reversible (Significant)	Long term adverse, temporary, reversible (Significant)	Short-term adverse, temporary, reversible (Not significant)	No effects
	Footpath AE432 (along the northern boundary of the northern parcel) (open views of northern parcel of Site until mitigation planting establishes)	Walkers / High/medium	Short-term adverse, temporary, reversible (Significant)	Medium-term adverse, temporary, reversible (Significant)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)	No effects (screened by mitigation planting)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)
	Footpath AE437 (100m section from Footpath AE432 towards woodland) (open views of northern parcel of Site)	Walkers / High/medium	Short-term adverse, temporary, reversible (Significant)	Medium-term adverse, temporary, reversible (Significant)	Long term adverse, temporary, reversible (Significant)	Short-term adverse, temporary, reversible (Not significant)	No effects
	Footpath AE437 (through woodland) and Footpaths AE434 and AE435 (views of northern parcel screened by woodland and views of southern parcel of Site screened by railway embankment)	Walkers / High/medium	No effects	No effects	No effects	No effects	No effects

	Footpaths		Effects on Visual Amenity				
SEI Fig	ZTV and Fieldwork Observations	Receptor / Sensitivity	Construction Phase (9 months)	Operational Phase (1 – 10 years)	Operational Phase (10 – 40 Years)	Decommissioning Phase (<9 months)	Post-decommissioning
	Footpath AE457 (southern section) (open views of western parcel of Site until mitigation planting establishes)	Walkers / High/medium	Short-term adverse, temporary, reversible (Significant)	Medium-term adverse, temporary, reversible (Significant)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)	No effects (screened by mitigation planting)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)
	Footpath AE457 (northern section) (views of western parcel of Site largely screened by rising land and boundary vegetation)	Walkers / High/medium	No effects	No effects	No effects	No effects	No effects
	Footpath AE657 (views of western parcel of Site largely screened by rising land and boundary vegetation)	Walkers / High/medium	No effects	No effects	No effects	No effects	No effects
	Footpath AE656 (between railway line and western parcel of Site as far as existing field boundary) (intermittent views of western parcel of Site, through intervening vegetation)	Walkers / High/medium	Short-term adverse, temporary, reversible (Significant)	Medium-term adverse, temporary, reversible (Significant)	Long term adverse, temporary, reversible (Significant)	Short-term adverse, temporary, reversible (Not significant)	No effects
	Footpath AE656 (between Church Lane and the existing field boundary) (open views of central parcel of Site until mitigation planting establishes)	Walkers / High/medium	Short-term adverse, temporary, reversible (Significant)	Medium-term adverse, temporary, reversible (Significant)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)	No effects (screened by mitigation planting)	Long-term beneficial (due to maturing of mitigation planting) (Not significant)

	Footpaths		Effects on Visual Amenity				
SEI Fig	ZTV and Fieldwork Observations	Receptor / Sensitivity	Construction Phase (9 months)	Operational Phase (1 – 10 years)	Operational Phase (10 – 40 Years)	Decommissioning Phase (<9 months)	Post-decommissioning
	Footpath AE459 (open views of eastern parcel of Site)	Walkers / High/medium	Short-term adverse, temporary, reversible (Significant)	Medium-term adverse, temporary, reversible (Significant)	Long term adverse, temporary, reversible (Significant)	Short-term adverse, temporary, reversible (Not significant)	No effects

Appendix 6: Proposed Planning Conditions

Commencement of Development
1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
Operational Period & Decommissioning
2. The Local Planning Authority shall be notified, in writing within one calendar month, of the date the development hereby permitted is first commercially operated for the supply of electricity. This permission shall expire 40 years after the date of first commercial operation, or within 12 months of the date the site was last operated, if the site does not supply electrical energy for a continuous period of 12 months, whichever is the sooner.
3. Not less than 6 months prior to the cessation of electricity production from the solar panels a scheme of works for the decommissioning of the solar farm and associated equipment which shall include; a timetable for works, decommissioning traffic management plan, including provision for addressing any abnormal wear and tear to the highway and a decommissioning plan to address noise and dust shall be submitted and agreed in writing with the local planning authority. The subsequent decommissioning of the site shall be carried out in accordance with the agreed details within 12 months of the expiry of this permission or within 12 months of the cessation of the production of electricity production (whichever is sooner).
4. No decommissioning works shall commence on the site hereby permitted (including site clearance) until the details of a full Decommissioning Transport Management Plan have been submitted to and approved in writing by the local planning authority (who shall consult with National Highways). Thereafter the decommissioning of the development shall proceed in accordance with the approved DTMP unless otherwise agreed in writing by the local planning authority (who shall consult National Highways).
Plans
5. The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard. <ul style="list-style-type: none">• SEI Figure 1.2 Proposed Site Layout (North) REV M• SEI Figure 1.2 Proposed Site Layout (South) REV M• SEI Figure 1.3 Proposed Site Layout (Aerial Image) - North• SEI Figure 1.3 Proposed Site Layout (Aerial Image) - South• SEI Figure: 11.9 Revision B Mitigation Plan
Construction Method Statement
6. No development shall commence until a Construction Management Statement (CMS), to cover both site clearance and construction phases of the development, has been submitted to and approved in writing by the Local Planning Authority. The CMS shall be undertaken in accordance with best practice guidelines and BS: 5228:2009 + A1:2014 (and any revisions thereof). The CMS shall include the following details: <ul style="list-style-type: none">a. scheduled timing/phasing of development for the overall construction period.b. loading and unloading of plant and materials.c. Fuels and oils will be kept in temporary site compounds and stored in double-walled containers or lined bunds.d. Any hazardous materials stored on site during construction or decommissioning will be stored securely.e. Location and management of wheel washing facilities.f. Temporary external lighting.g. Dust management.h. Waste management during the construction phases of the development.

<ul style="list-style-type: none"> i. Confirmation that no materials produced as a result of the site development or clearance shall be burned on site. j. Construction and delivery working hours
Construction Traffic Management Plan
<p>7. No works shall commence on the site hereby permitted (including site clearance or preparation) until the details of a full Construction Transport Management Plan (CTMP) have been submitted to and approved in writing by the local planning authority (who shall consult National Highways). Thereafter the construction of the development shall proceed in accordance with the approved CTMP unless otherwise agreed in writing by the local planning authority (who shall consult National Highways). The CTMP should include:</p> <ul style="list-style-type: none"> a. Site entrance traffic management measures; b. Approach to be taken to vehicles approaching the rail tunnel 3.81m height limit; c. Use of banksmen; d. Use of signage to confirm which roads are not to be used by construction traffic; e. Routeing of vehicles; and f. Pre-commencement road condition survey.
Construction Environmental Management Plan
<p>8. Prior to the commencement of development a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:</p> <ul style="list-style-type: none"> a. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements). b. The location and timing of sensitive works to avoid harm to biodiversity features. c. The times during construction when specialist ecologists need to be present on site to oversee works. d. Responsible persons and lines of communication. e. The role and responsibilities on site of an Environmental clerk of works (ECoW) or similarly competent person. f. Use of protective fences, exclusion barriers and warning signs. g. Measures to ensure construction noise impacts are minimised; h. Measures to prevent entrapment in open excavations; i. Pollution control measures including silt trap fencing; j. Approach to arable field management so as to prevent birds from breeding within the working areas <p>The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.</p>
Landscape and Ecological Management Plan
<p>9. Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The LEMP shall detail works that will be undertaken for the operational lifespan of the project. The content of the LEMP shall include the following:</p> <ul style="list-style-type: none"> a. Description and evaluation of features to be managed, including soft landscaping. b. Ecological trends and constraints on site that might influence management. c. Aims and objectives of management. d. Appropriate management options for achieving aims and objectives. e. Prescriptions for management actions. f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period). g. Details of the body or organisation responsible for implementation of the plan. h. Ongoing monitoring and remedial measures. <p>The LEMP will be implemented in accordance with the approved details.</p>
Designing out Crime

10. Prior to commencement of operation a crime prevention statement, to provide information in relation to physical security and security measures to be adopted, shall be submitted to and approved in writing by the local planning authority. The scheme should be implemented in accordance with the approved details.
National Highways
11. No part of the development hereby permitted shall commence until details of all works (structures or other engineering works, and hard and soft landscaping), within 20m of the M20 boundary have been submitted to and approved in writing by the Local Planning Authority (who shall consult National Highways). The approved boundary details shall thereafter be constructed in accordance with the approved plans and maintained for the life of the development.
Surface Water Drainage
<p>12. Development shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.</p> <p>The drainage scheme shall also demonstrate (with reference to published guidance):</p> <ul style="list-style-type: none"> • That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters. • Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. • No drainage systems infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. <p>The drainage scheme shall be implemented and maintained in accordance with the approved details.</p>
Flood Risk
<p>13. Prior to operation the mitigation measures below shall be fully implemented and subsequently retained and maintained thereafter throughout the lifetime of the development.</p> <ol style="list-style-type: none"> All infrastructure (except access tracks) should be set outside the exclusion zone delineated by a level to be agreed in writing with local planning authority. In all other respects the development shall be carried out in accordance with the submitted flood risk assessment (ref East Stour Solar Farm FRA and Outline Drainage Strategy / Wallingford Hydro solutions Ltd, March 2022) In particular a topographical survey be conducted to determine accurate ground levels as stated in Section 3.1, p.7. of the FRA Raising ground levels within the flood storage area must be avoided.
Land Contamination
<p>14. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:</p> <ol style="list-style-type: none"> A preliminary risk assessment which has identified: <ol style="list-style-type: none"> all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site. A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

<p>d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.</p> <p>Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.</p>
Archaeology
<p>15. No development shall take place until the following has been implemented:</p> <ul style="list-style-type: none"> a. Archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and b. Following the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.
Permissive Footpaths
<p>16. Prior to operation a scheme for the retention of the permissive footpath "Footpath A" and for the creation of a permissive footpath "Footpath B", as indicatively shown on SEI Figure 11.9 revision B – Mitigation Plan, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include for the maintenance of both Footpath A and Footpath B for the duration of the development. The scheme shall be implemented and maintained as in accordance with the approved details.</p>