

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

Planning Inspectorate Reference: APP/E2205/W/24/3352427

**Topic Specific Statement of Common Ground between EDF Energy Renewables Limited
(trading as EDF Renewables) and Ashford Borough Council**

Landscape and Visual Impacts

1. Introduction

- 1.1 This Statement of Common Ground ("**SoCG**") has been made between 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**") and Ashford Borough Council (the "**Council**").
- 1.2 This SoCG is supplementary to the Main SoCG agreed between the Appellant and the Council on 25 November 2024 and adopts the terminology of the Main SoCG. It does not repeat the details in relation to the Site, local area, Proposed Development, planning history, the Development Plan or other material considerations sections contained within the Main SoCG.
- 1.3 This supplementary SoCG relates specifically to landscape and visual impacts arising as a result of the Proposed Development, which forms part of the Council's first Reason for Refusal within its decision notice of 29 April 2024, which states 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. Statement of Common Ground

- 2.1 To assist the Inspector in preparing for the appeal, and with the intention of minimising the extent of oral evidence they will need to receive, this document has been prepared to detail those areas of agreement and disagreement that have been reached between the Appellant and the Council as at 6 January 2025 in relation to landscape and visual matters associated with the Proposed Development.

3. Areas of Agreement

- 3.1 This section of the SoCG sets out those matters which are agreed between the Appellant and the Council in relation to landscape and visual.
- 3.2 Some detail was already agreed in relation to landscape and visual matters as part of the main SoCG, namely the application documents which are considered to be material to the consideration of this appeal. This is not repeated within this SoCG, but should be read together with this SoCG.

Landscape and Visual

- 3.3 The CLVIA (SEI Chapter 11) Method of Assessment is consistent with good practice guidance, including the *Guidelines for Landscape and Visual Impact Assessment, 3rd edition* (GLVIA3) (The Landscape Institute/IEEMA, April 2013).
- 3.4 The LVIA and CLVIA have sought to identify all likely significant effects on landscape resources and visual receptors. As defined in the Method of Assessment (SEI Appendix 11.1, paragraph A2.15), significant effects are those changes to the baseline resources and/or receptors of sufficient magnitude to be a material planning matter and which should,

therefore, be taken into account in the decision-making process. This definition is not necessarily the same as "EIA significance" which is not defined in the EIA Regulations. Furthermore, significant adverse effects are not necessarily unacceptable effects and the acceptability of any predicted significant adverse effects on landscape character and visual amenity should be considered as part of the planning balance.

3.5 The LVIA and CLVIA have examined the individual and cumulative effects of the Proposed Development in terms of three development scenarios:

- Development scenario 1 – has assessed the individual effects of the Proposed Development in the context of the existing landscape and visual baseline that includes all existing development and infrastructure in the study area.
- Development scenario 2 – has assessed the additional effects of the Proposed Development in the context of the likely future landscape and visual baseline that includes all existing and permitted development and infrastructure in the study area.
- Development scenario 3 – has assessed the combined effects of the Proposed Development in combination with the proposed NSIP Stonestreet Green Solar proposal and in the context of the likely future landscape and visual baseline that includes all existing and permitted development and infrastructure in the study area.

3.6 For development scenario 1, the existing baseline is known and so the assessment of effects has been undertaken in the context of a baseline with a high degree of certainty.

3.7 For development scenario 2, the likely future baseline and assessment of effects assume that three permitted developments (Sellindge BESS, Sellindge GSF and Otterpool Park Garden Town) would be constructed and would form part of the landscape and visual baseline for the duration of the lifetime of the Proposed Development. It is possible that one or more of these permitted developments are not built or are not built to their full extent. However, without information to suggest otherwise, assuming that all three permitted developments will be constructed as permitted in the near future is a reasonable approach to take in the assessment of effects for development scenario 2.

3.8 For development scenario 3, there is a degree of uncertainty with both the likely future baseline (as noted above) and with the proposed NSIP Stonestreet Green Solar scheme. The scheme is a proposal, not an approved development. The predicted combined effects would occur only if both the Proposed Development and the proposed Stonestreet Green Solar scheme were to be permitted and constructed in accordance with the current proposed schemes so these combined effects could, but not necessarily would, occur.

3.9 The LVIA and CLVIA have examined the individual and cumulative effects of the Proposed Development in terms of the three development scenarios described above, on the landscape resources and visual receptors in a 5km radius study area centred on the Site, informed by published landscape character assessments, computer-generated zones of theoretical visibility ("**ZTVs**"), fieldwork and a viewpoint analysis. It is agreed that:

- 3.9.1 5km study area – the extent of this study area is sufficient for the LVIA and CLVIA to identify all likely significant effects on landscape resources and visual receptors.
- 3.9.2 Landscape resources – these are the landscape fabric of the Site and immediate surroundings, the landscape character of the Site and study area, and designated landscapes.
- 3.9.3 Landscape fabric – is the physical features and elements that make up the

landscape, including landform, field pattern, ponds, rivers, streams and drainage, fences, walls, hedgerows, trees, woodlands and ground vegetation. The landscape fabric of the Site and immediate surroundings is described in ES Chapter 11, paragraphs 11.22 – 11.28 and it is agreed that there would not be any physical effects on the following landscape features on the site - landform, field pattern, drainage, fences, hedgerows and trees.

- 3.9.4 Landscape character – arises from the combination of physical elements, aesthetic and perceptual characteristics of a landscape. The landscape character of the Site and most of the study area are described in two landscape character assessments undertaken on behalf of Ashford Borough Council (Studio Engleback November 2005 and Jacobs June 2009). There is also a landscape character assessment for the Kent Downs National Landscape (AONB). Relevant extracts from the Ashford assessments are provided in ES Appendix 11.1 and the key characteristics of the LCAs that are within the study area are provided in ES Chapter 11 (paragraphs 11.31 – 11.33). These LCAs do not cover the entire study area but the majority of the theoretical zones of visibility illustrated on the ZTVs fall within these LCAs.
- 3.9.5 Designated landscapes – the only designated landscape in the study area is the Kent Downs National Landscape (AONB). The statutory consultees (Kent Downs AONB unit and Natural England) do not object and agree that the Proposed Development would not result in significant adverse or unacceptable impacts on this designated landscape or its setting. Significant effects on designated landscapes are not cited in RfR1 and it is agreed that any effects on the Kent Downs National Landscape (AONB) or its setting would not be significant.
- 3.9.6 Visual receptors – the visual receptor types in the study area with the potential to be significantly affected by the Proposed Development are residents in settlements and individual properties, visitors to visitor attractions, users of long distance recreational routes, walkers on public rights of way ("**PROWs**"), motorists and their passengers on main and minor roads and passengers on the HS1 railway line.
- 3.9.7 The ZTVs illustrated in SEI Figures 11.1 – 11.8 Revision A and SEI Figures 11.25 and 11.26 are based on terrain data and do not take into account the screening effects of vegetation and other surface features.
- 3.10 Under development scenario 1, in the context of the existing baseline which includes the existing development, the extent of the significant effects on landscape resources and visual amenity would be as follows:
 - 3.10.1 Landscape character – the Evegate Mixed Farmlands LCA and the East Stour Valley LCA as described in the Ashford Landscape Character Assessment). It is agreed that during the construction and operational phases, significant adverse effects on landscape character would affect the Evegate Mixed Farmlands and East Stour Valley LCAs. By 10 years post construction, the proposed planting would provide some mitigation but significant adverse effects on landscape character would still affect land within the Evegate Mixed Farmlands LCA and part of the East Stour Valley LCA).
 - 3.10.2 Visual amenity - during the construction and early operational phases for residents in Bested House and The Paddock. During the early operational phase for visitors to the Aldington Races point-to-point event (if this event is held again in the future). During the construction and early operational phases for motorists and their passengers on a 1km section of Church Lane. During the

construction and operational phases for users of the PROWs within and around the Site including sections of Footpaths AE432, AE437, AE457, AE459 and AE656 and the two new permissive footpaths (Footpath A and Footpath B).

- 3.11 Under development scenario 2, 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 development scenario 1.
- 3.12 Under development scenario 3, in the context of the likely future baseline which includes the existing and permitted development, and 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 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.
- 3.13 The Proposed Development includes provision for various mitigation measures, as illustrated on SEI Figure 11.9 Revision B. These include:
- 3.13.1 Two new permissive footpaths (Footpath A and Footpath B).
 - 3.13.2 New native hedgerows to be planted along the outside of the perimeter fence in various locations around the northern, western, central and eastern parcels of the Site.
 - 3.13.3 Improvements to existing field boundaries including gap planting and increasing the width and species mix of existing hedgerows with new planting.
 - 3.13.4 Wildflower/grassland over much of the Site, plus riparian mixed planting alongside the streams and ditches on the Site.
- 3.14 Whilst the parties agree that the above correctly identifies the scope of mitigation measures proposed by the Appellant, the extent to which the parties consider these to be reasonable and appropriate is not in agreement. This is discussed further in Section 4 (Areas of Disagreement) of this SoCG.

4. Areas of Disagreement

- 4.1 This section of the SoCG sets out those matters which are not agreed between the Appellant and the Council in relation to landscape and visual matters, with the intention of narrowing the extent of disagreement therein.
- 4.2 Some detail was already confirmed to be in dispute in relation to landscape and visual matters as part of the main SoCG, namely in relation to proposed mitigation measures. This is repeated within this SoCG but expanded upon in respect of the parties' respective positions.

Landscape and Visual

- 4.3 The LVIA Method of Assessment was provided in the ES in conjunction with each stage of the assessment:

- 4.3.1 ES Ch 11 paras 11.4 – 11.7 (General approach, guidance and process).
- 4.3.2 ES Appendix 11.2 (paras 1 – 17) (prediction methodology for the viewpoint analysis).
- 4.3.3 ES Chapter 11 (paras 11.57 – 11.58) (prediction methodology for the assessment of effects on landscape fabric).
- 4.3.4 ES Chapter 11 (paras 11.63 – 11.66) (prediction methodology for the assessment of effects on landscape character).
- 4.3.5 ES Chapter 11 (paras 11.105 – 11.109) (prediction methodology for the assessment of effects on visual amenity).
- 4.4 The Council considers this approach to not be in accordance with GLVIA3. The Appellant disagrees.
- 4.5 The Appellant considers that Viewpoints 1 – 13 and A – E are a representative sample of landscape resources and visual receptor locations in the study area that could be significantly affected by the Proposed Development and that these viewpoint locations, the accompanying viewpoint analyses and illustrative visualisations, plus the cross-sections provided in the SEI (SEI Figures 11.14 – 11.24) are sufficient to inform and illustrate the assessment of effects on landscape resources and visual amenity. The Council disagrees and considers that the limited number of viewpoints from key visual receptors within and immediately bordering the Site, principally Footpaths AE432, AE437, AE656, AE457 and AE459 and Church Lane, makes assessment of effects and drawing reasonable conclusions as to impacts and effects difficult.
- 4.6 The Appellant considers that the mitigation measures proposed, as described within paragraph 3.13 of this SoCG, are reasonable and appropriate and that the Year 10 visualisations for Viewpoints 1 – 13 provide an accurate representation of the degree of screening that would be provided by year 10 of the operational phase during the summer months. The Appellant considers that the submitted visualisations illustrate the maximum extents and illustrate the 'worst case' view at each of the viewpoints. The Council considers that the visualisations are based on submitted layout plans which are indicative and may not represent the final scheme extents. The Council does not agree that the mitigation measures are reasonable and appropriate for a development of this scale and geographical extents in this rural location. The Council disagrees with a number of the conclusions as to the effectiveness of this mitigation in reducing visual effects from key visual receptors within and bordering the Site principally Footpaths AE432, AE437, AE656, AE457 and AE459 and Church Lane. The Council also considers that mitigation will not substantially reduce adverse effects on local landscape character.

This Statement of Common Ground is agreed between:

Eversheds Sutherland (International) LLP on behalf of **the Appellant**

and

Ashford Borough Council

on 6 January 2025.

DRAFT