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# Delivering ‘place-friendly’ renewable energy

**Jonathan Clay, Emma Dring and Ruchi Parekh**

[The slides and recording will be available on our website shortly after the webinar](#)

24 May 2023

# Overview



**Context and “Need”**

**Minimising Harm**

**Opportunities for Enhancement**

**Environmental Impact Assessments**



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“Need”

Jonathan Clay

# Need: Fiddling while the world burns?



# National Net Zero obligations



- There is a legal obligation to achieve Net-Zero by 2050 and there are interim targets, also binding in law (Carbon Budgets) under the Climate Change Act 2008.
- The Net-Zero obligation is the UK's contribution to meeting the 2015 Paris Agreement on Climate Change and there is a duty on government to ensure that these targets are met.
- “Build Back Greener” (2021) Govt's Net Zero Strategy seeks to fully decarbonise our power supply by 2035.
- Carbon Budget 6 is the UK's legally binding 2030 Nationally Determined Contribution (NDC) under the Paris Convention and is required to provide ministers with advice on the volume of greenhouse gases the UK can emit during the period 2033-2037

# Net Zero obligations continued



- National security of supply and affordability of energy is sharply in focus and must be delivered hand-in-hand with decarbonisation;
- The government's objectives for the energy system are to ensure our supply of energy always remains secure, reliable, affordable, and consistent with net zero emissions in 2050 for a wide range of future scenarios, including through delivery of our carbon budgets and NDC;
- That government's approach is to decarbonise the electricity sector first and introduce "whole-systems thinking" which means enabling low-carbon electricity to be used to decarbonise other sectors which have not traditionally used electricity, such as heat, industry, commerce and transport; and
- The role of the Committee on Climate Change (CCC) is to make recommendations and provide independent oversight and assurance to government's plans

# Renewables: wind and solar



Schemes for 50MW plus are determined under the 2008 Act as NSIPS

NPPF Para 5: No specific policies for NSIPS in the NPPF, but NPSs are material considerations in determination of smaller schemes. Many applications are for 49 MW to come under the threshold.

Revised draft NPS EN-1 articulates the prudence of planning infrastructure development on a conservative basis, including for scenarios in which the future use of hydrogen is limited, and concludes that *“a secure, reliable, affordable, Net Zero consistent system in 2050 is likely to be composed predominantly of wind and solar”*.

# Wind



Footnote 54:

“....proposed wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing.”

Result: very little onshore wind permitted.

# Proposed amendment:



*Proposed NPPF Footnote 62:*

*“Wind energy development involving one or more turbines can be granted through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders, if it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.”*

# Proposed amendment Footnote 63



Proposed Footnote 63 reads:

- *Except for applications for the repowering of existing wind turbines, a proposed wind energy **development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in either the development plan, or a supplementary planning document** identifies an area as suitable for wind energy development (where the development plan includes policy on supporting renewable energy); and, following consultation it can be demonstrated that the **planning impacts identified by the affected local community have been satisfactorily addressed and the proposal has community support.***

# Solar



*Solar farms are one of the most clearly established renewable electricity technologies in the UK and the cheapest form of electricity generation.*

*Solar farms can be built quickly and, coupled with consistent reductions in the cost of materials and improvements in the efficiency of panels, large-scale solar is now viable in some cases to deploy subsidy-free*

*Government therefore “has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions. As such solar is a key part of the government’s strategy for low-cost decarbonisation of the energy sector”.*

# Need for renewables



NPPF158. When determining planning applications for renewable and low carbon development, local planning authorities should: .... 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....

# Need for renewables

## Preparing a Statement of Need



A “Statement of Need” can set out the need for, and benefits of, the Proposed Development in terms of its contribution to the decarbonisation of UK energy supply, including local energy supply, to achieve Net-Zero and also in helping to improve the UK’s energy security.

A Statement of Need should draw on published documents, policy and strategy at international, national and local level

# Need: The three pillars of energy policy



1. Net-Zero and the importance of urgently deploying low-carbon generation assets at scale;
2. Security of supply (geographically and technologically diverse supplies); and
3. Affordability and reducing exposure to volatile international markets.

# Need: Benefits (1)



- There is a National need for additional sources for renewable energy generation in the UK in general and in densely populated areas in particular.
- For example, despite ambitious net zero plans and the declarations of climate emergency many planning authorities have permitted only 5% of their area's identified need.
- The benefit that renewables development provides in assisting in meeting both the national and local urgent and compelling need for low-carbon generation should be accorded substantial weight when assessing the planning balance.
- For example; Renewable energy development is still “inappropriate development” in the Green Belt, but many appeal decisions now find that the need for renewable energy on its own amounts to “very special circumstances”.
- National Parks and AONB designations do not exclude renewables development.
- Emphasis on “community – led initiatives” that can be permitted outside of areas identified in local plans and neighbourhood plans. NPPF 156.

# Need: decarbonisation increases electricity demand



- The need for decarbonisation is growing, as is the urgency for the actions required to deliver decarbonisation.
- Decarbonisation will increase demand for electricity; for example as consumers shift from gas, coal and oil to electricity in homes, businesses and EVs.
- The supply of low carbon electricity must increase in order to meet growing demand caused by decarbonisation, as well as to replace existing low-carbon and carbon-intensive generating stations which are at or close to their economic end of life.

# Need: NPS



The NPSs conclude that the UK urgently needs sufficient electricity capacity from a diverse mix of technologies and fuels in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions.

Government issued draft revisions of NPS EN-1 and NPS EN-3 (Renewable Energy Infrastructure) for consultation in March 2023. These revisions include updated policy on the development of low-carbon infrastructure.

The draft revised NPS states that:

*“Using electrification to reduce emissions in large parts of transport, heating and industry could lead to more than half of final energy demand being met by electricity in 2050, up from 17 per cent in 2019, representing a doubling in demand for electricity.”*

# Need : Benefits Solar



- As well as its important contribution to decarbonisation, solar energy has an important role to play in reducing the UK's over-reliance on foreign energy sources and volatile international energy markets.
- Solar is also one of the lowest cost sources of electricity generation in the UK, and has an important role to play in managing the affordability of electricity;
- Solar plays an important role in enhancing UK electricity system security, and complements UK's existing and growing wind generation capacity.

# Need: NPS cont....



- *Solar farms are one of the most established renewable electricity technologies in the UK and the cheapest form of electricity generation.*
- *Solar farms can be built quickly and, coupled with consistent reductions in the cost of materials and improvements in the efficiency of panels, large-scale solar is now viable in some cases to deploy subsidy-free.*
- *Government therefore “has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions. As such solar is a key part of the government’s strategy for low-cost decarbonisation of the energy sector”.*

# Mission Zero



- In January 2023, *Mission Zero* was published by Rt Hon Chris Skidmore MP, Chair of the government's Independent Review of Net Zero. The report was commissioned to ask how the UK might deliver its own net zero targets in a manner that was more affordable, more efficient, and in a pro-business and pro-enterprise way.

# Mission Zero Recommendations



- Priority Mission no. 2 is *“Full-scale deployment of solar including a rooftop revolution to harness one of the cheapest forms of energy, increase our energy independence and deliver up to 70GW of British solar generation by 2035”*;
- Priority Mission no. 8 is *“Working towards gas free homes by 2035 [or earlier]”* and Recommendation 1 is to set a legislative target for gas-free homes and appliances.
- Priority Mission no. 9 is to *“Embed nature and habitat restoration ... maximising co-benefits for climate and nature wherever possible.”*
- Recommendation 11 is to *“Set up taskforce and deployment roadmaps in 2023 for solar to reach up to 70GW by 2035”* – an aim established in the British Energy Security Strategy of 2021.
- Recommendation 15 is the swift delivery of Zero Emissions Vehicles and the ZEV mandate to apply from 2024.
- The Review recognises the importance of local action and local plans to the achievement of Net Zero. *“People and places”* must be empowered to deliver Net Zero through a full alignment on a local level with a Net Zero future through the introduction of a *“net zero test”*.

# Government response: “Powering up Britain”



- Government *“Agree[s] with the Review’s conclusion that net zero is the growth opportunity of the 21<sup>st</sup> century and could offer major economic opportunities to the UK – but that decisive action is needed to seize these”*
- Government are *“partly or fully acting upon 23 recommendations from the Independent Review of Net Zero report’s 25 recommendations for 2025”* .

# Need : Connectivity



- 40% of approved renewable developments are unable to connect to the Grid due to absence of connecting infrastructure, and are likely to be delayed by between one and 10 years.
- Major capital investment is needed to provide infrastructure connections for development approved and in the planning pipeline.
- Developments which can be delivered against short timescales are vitally important in the achievement of decarbonisation, security of supply and affordability targets at both a national and local level;
- Developments located close to an existing point of connection to the local electricity network with immediately available connection capacity can mean that development would be able to complete construction and commissioning quickly post consent and start to deliver against the urgent need for renewable generation developments in the UK.

# Need: Renewables in the Green Belt



- On-shore wind and solar farm developments are likely to be proposed in open countryside, rather than urban areas.
- In practice this means that in many authorities, sites are likely to be within Green Belts surrounding urban areas.
- Solar farms are space hungry unless they are mounted on existing buildings. Turbines are often perceived as causing long distance harm to visual amenity.
- Both are liable to be refused permission because of harm to “openness” of the Green Belt.
- Solar farms and onshore turbines are still often refused permission as “inappropriate development” in the Green Belt.
- **Isn't it time that they were treated as one of the exceptions to the presumption against new buildings in the GB?**

# Have we reached the tipping point?



- There is a 50:50 chance of average global temperature reaching 1.5 degrees Celsius above pre-industrial levels in the next five years, and the likelihood is increasing with time, according to a new report by the World Meteorological Organization (WMO), published on 9 May 2023.
- The 1.5 °C target is the goal of the Paris Agreement, which calls for countries to take concerted climate action to reduce greenhouse gas emissions in order to limit global warming.
- Petteri Taalas, the WMO Secretary-General: *“The 1.5°C figure is not some random statistic; rather, it is an indicator of the point at which climate impacts will become increasingly harmful for people and indeed the entire planet.”*

# Conclusions Climate Change Committee



The Climate Change Committee (CCC) is an independent, statutory body established under the Climate Change Act 2008.

Its purpose is to advise the UK and devolved governments on emissions targets and to report to Parliament on progress made in reducing greenhouse gas emissions and preparing for and adapting to the impacts of climate change.

# CCC recommendations



- CCC recommend five steps to close the “resilience gap”:
  1. Translate the present high-level objectives into delivery plans, with clear goals and measurable outcomes for resilience.
  2. Align policy-making for resilient infrastructure with regulatory cycles.
  3. Give essential duties to Regulators that presently do not have them.
  4. Strengthen resilience coordination between infrastructure systems to head-off cascading impacts.
  5. Embed net zero and climate adaptation in infrastructure planning.

**Need : Conclusion.**







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**Minimising harm and opportunities for  
enhancement**

Emma Dring



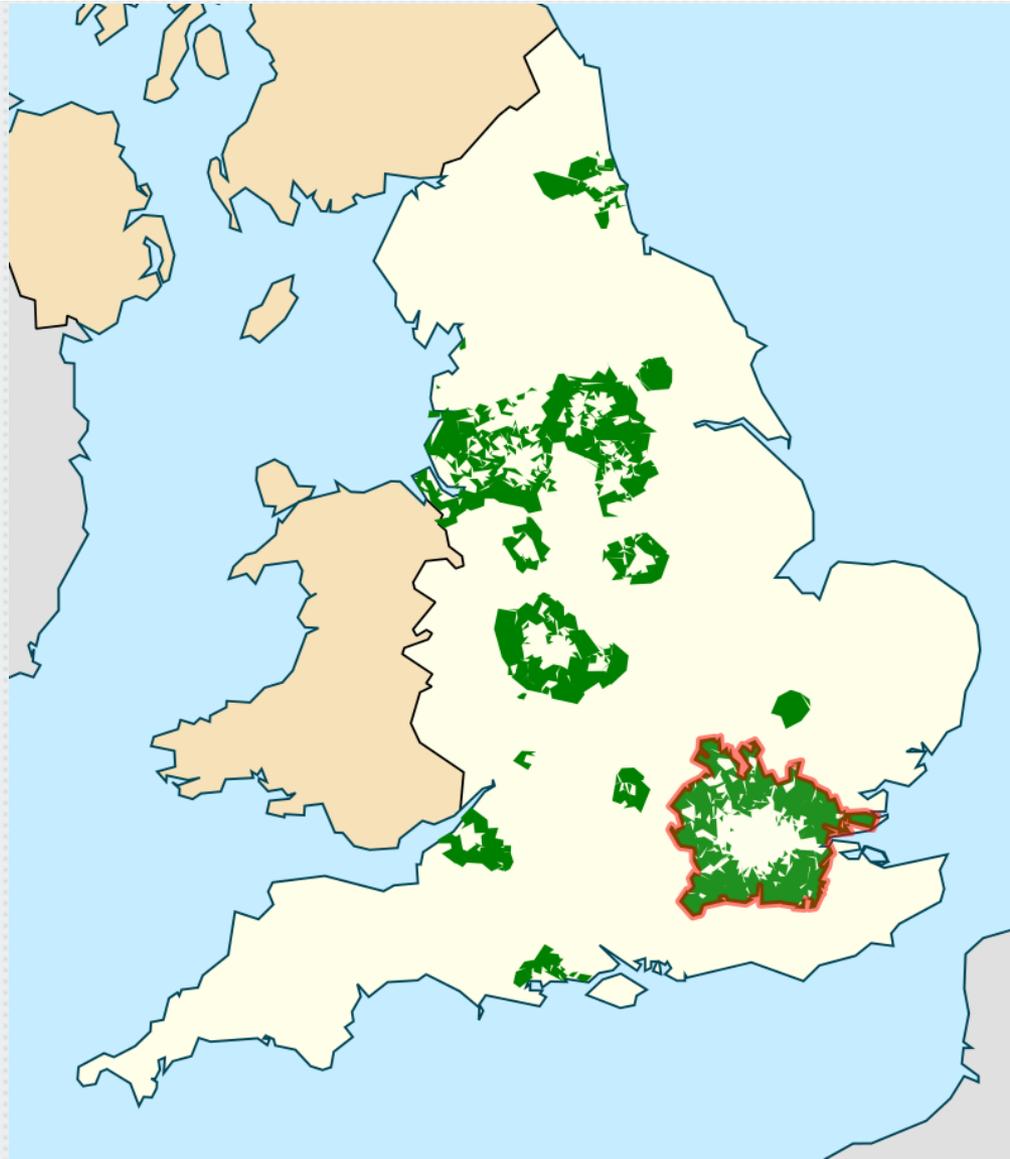
Minimising harm

# What harms exist?



- Green belt
- Heritage assets
- Landscape character/visual amenity

# Green Belt



# Green Belt



- NPPF 148: VSC will not exist unless “harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”
- Harm cannot be avoided and carries substantial weight.
- 3 elements of harm:

Inappropriateness

Openness

Purposes

# Green Belt



## Inappropriateness

- Harm by definition
- Closed lists NPPF 149-150
- Cannot be avoided/reduced



## Openness

- The state of being free from development: Lee Valley [2016] EWCA Civ 404
- May include spatial and visual aspects: Turner [2016] EWCA Civ 466
- May be some scope to minimise visual aspects.
- No real scope to minimise spatial effects.

# Green Belt



## Purposes

138. Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- Scope to argue over how many purposes are affected



- VSC – usually a combination of benefits

151. When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

- SoS has not granted a solar farm in the GB since at least 2013.
- Inspector's decisions are more mixed. Extent of other harms (heritage, landscape) is a critical factor.

# Heritage



# Heritage



- Statute and NPPF: great weight to heritage harm
- “Significance” = heritage value
- RE projects often affect setting – “surroundings in which a heritage asset is experienced”. Can contribute to significance positively or negatively, or “may affect the ability to appreciate that significance”.

# Heritage



- How does the development site add to (or detract from) significance?
- How does it allow significance to be appreciated, or affect the experience?
- Views - is there really a link with significance?
- Land E of Langford Mill, SoS Dec 2022 (3293104)

133. While the appeal site might be just visible from Langford Court, that is not the test and does not equate to a contribution to heritage significance. A view that does not illustrate architectural or historic interest and does not allow the significance of an asset to be appreciated is merely an incidental view that neither contributes to nor detracts from heritage significance.

# Heritage



## App s62A/2022/0011 (Uttlesford)

- 49.9MW solar farm - refused

29. These Scheduled Monuments are located within a strongly defined rural context, and this contributes positively to their surroundings and significance. Visitors are currently able to appreciate the agricultural and societal history of this part of Essex and its connection with the wider landscape. The introduction of rows of solar panels and associated infrastructure would drastically alter this relationship and the experience of those seeking to appreciate it. Instead of open agricultural fields the proposal would form an expansive industrial 'techscape', severing the monuments from the rural context in which they are currently experienced.



## App s62A/2022/0006 (Uttlesford)

- 49.99MW solar farm - permitted

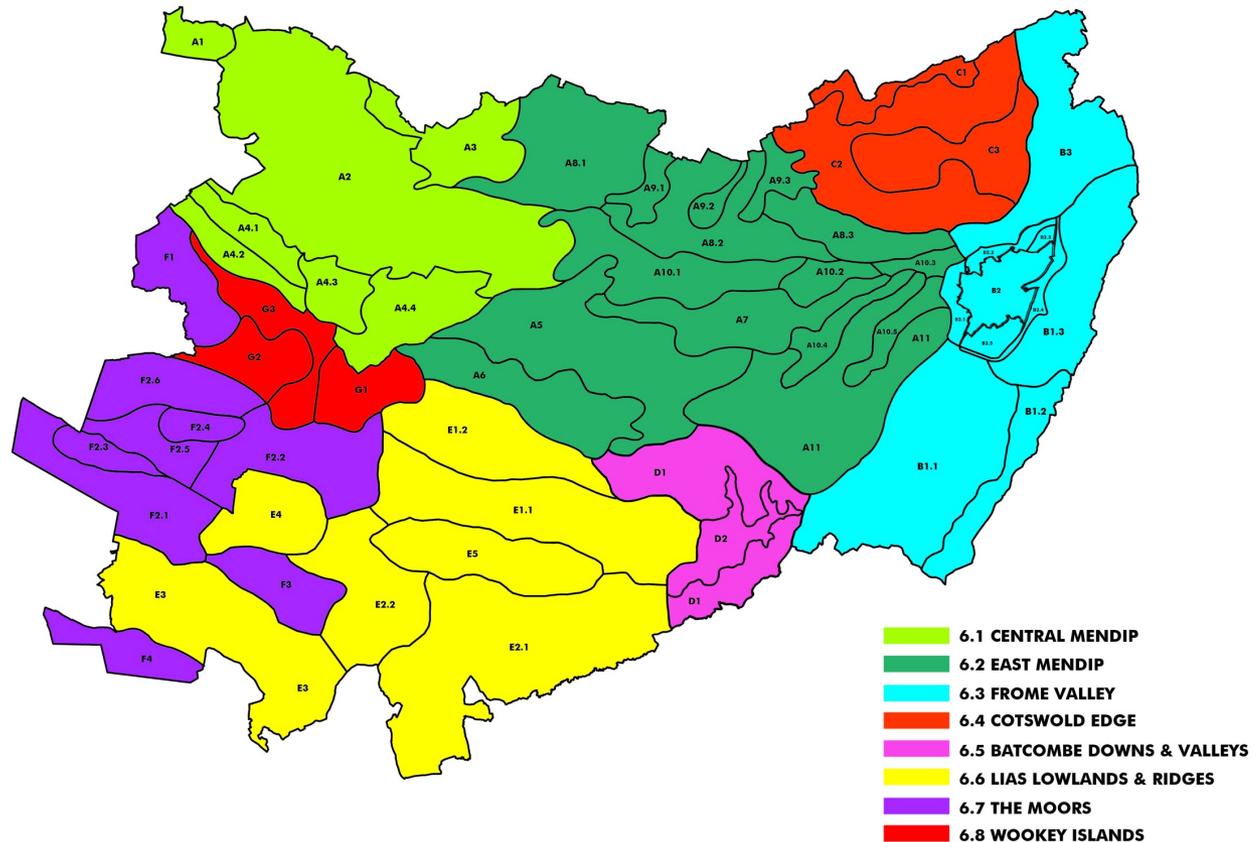
41. The wider setting of The Crump comprises of the extensive agricultural landscape within which it is located and makes a positive contribution to its significance. I appreciate that the application site forms a part of that overall landscape. That said, The Crump cannot be easily perceived or distinguished as a physical feature.

42. The application site, although large, forms only a small part of the overall rural landscape. Thus, it makes a minor contribution to the setting and significance of The Crump when factoring distance, intervening vegetation, and a lack of any known historical or functional connection. Accordingly, I agree with Historic England there would be less than substantial harm arising from the impact of the scheme on its setting.



- Reducing harm/mitigation at an early stage
- Pay particular attention to screening. GPA3: “Screening may have as intrusive an effect on the setting as the development it seeks to mitigate ... it too merits careful design”
- Beware of resubmissions/alternative schemes – get it right first time.

# Landscape/visual



# Landscape/visual



## Landscape character

- Landscape as a ‘resource’
- Valued landscape or ‘ordinary countryside’?  
“Protect and enhance” vs “Recognise intrinsic character and beauty”
- GLVIA Box 5.1 and TGN 02/21
- Inevitability of landscape character effects – how localized/widespread?

# Landscape/visual



## Visual amenity

- Focus is on pleasantness of the view, assessment of specific views
- Extent/location of publicly available views is key

# Landscape/visual



- Nature of development - limited ability to mitigate through design
- Landscape-led approach - inform site layout, minimise landscape and visual effects e.g.
  - Avoiding most sensitive areas
  - Reducing proximity to PROWs
  - Location and specification of planting
  - Identifying opportunities to replace, reinforce, improve elements of landscape character/views



**Opportunities for enhancement**

# Generally



- Enhancements are additional benefits which can be weighed in the planning balance
- Draft EN1 promotes enhancements where opportunities exist – heritage (5.9.13), BNG and other environmental gains (4.5.2, 4.5.11)
- Particularly important in Green Belt cases (as part of VSC) or where there is significant heritage impact (as part of the public benefits)

# Biodiversity enhancements



- Legal requirement for 10% BNG not yet in force. Check local policy requirements
- Can carry significant positive weight in the planning balance:

Land E of Langford Mill, SoS, Dec 2022 (3293104)  
179.25% area units: “significant weight”

Land N of Halloughton, Feb 2022 (3279533)  
73% area units: “significant weight”

# LANDSCAPE AND ECOLOGY MASTERPLAN

Our designs and proposals are progressing but we have more to learn. We're keen to talk and listen to our neighbours and local experts to help shape our proposal. We want to tap into local knowledge to make sure our project delivers all it can to the site, the wider local area, and beyond.

## NORTH FOSSIL FARM STATS

- 40 megawatts installed capacity
- 47 hectares of land
- Provide enough locally-generated, clean renewable energy to more than 14,000 homes
- 9,165 tonnes of carbon emissions saved every year  
Equivalent of taking 4,000 cars off the roads

## MANOR FARM STATS

- 30 megawatts installed capacity
- 43 hectares of land
- Provide enough locally-generated, clean renewable energy to more than 10,600 homes
- 6,877 tonnes of carbon emissions saved every year  
Equivalent of taking 2,800 cars off the roads



Scrapes dug on four meadow fields to increase Water breeding habitat. The North West meadow to be surrounded by a fox proof fence, providing a protected area for the reintroduction of white storks.

Stork release field with fox-proof fencing

## STAGE TWO:

### MANOR FARM

#### Wetland and re-wilding

Field drainage is naturalised enabling wetland habitat to establish.

#### New solar panels

Solar panels will stand on approx. 30% of the total site area, but less than 5% of the land is actually disturbed.

Woodland grazing created in the wide buffers (45m) between field boundaries and solar panels.

#### Farming continues

As well as grazing the Westerly fields, Suckler herds fed on organic grass can browse the margins between the solar farm and the new woodland.



MANOR FARM WILL BE THE SUBJECT OF A SEPARATE PLANNING APPLICATION TO BE SUBMITTED IN 2021



Listed building restoration

Salad production

Adapting the flow of water in on-site ditches can reduce pressure on local hydrology and deliver significant benefit to Tadnoll and Winfrith Heath nature reserves.

New woodland

The site is designed to enable sheep to graze helping to manage the land.

## STAGE ONE:

### NORTH FOSSIL FARM

#### Ecological gains

The reduced intensity of farming brings benefit to local ecological reserves. Improvements to local hydrology, reduced cultivation and fertilisation reduce pressure and pollution within the River Frome catchment area.

An appropriate native grass and wildflower mix sown around the panels to improve the biodiversity potential of the land, securing it as a haven for wildlife.

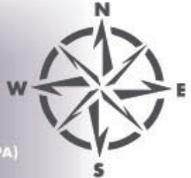


New woodland

#### Historic field boundaries re-introduced, and new boundaries planted, creating new wildlife corridors

Field boundaries allowed to grow to 15 metres in height to enhance landscape features and provide screening.

The existing field boundaries, grassland and hedgerow habitats would be retained, protected and increased to create wildlife corridors through the site.



DORSET HEATHS (SAC)  
WINFRITH HEATH (SSSI)  
DORSET HEATHLANDS (SPA)

WINFRITH HEATH SUBSTATION

KEY	NEW SOLAR PANELS	ACORN	HEATH LAND

# Heritage benefits



- Setting – elements may make negative contrib. to significance.
- Heritage enhancements may go to reduce level of harm (net balance) or weigh against it under NPPF para 202.

38 Enhancement (see [NPPF, paragraph 137](#)) may be achieved by actions including:

- removing or re-modelling an intrusive building or feature
- replacement of a detrimental feature by a new and more harmonious one
- restoring or revealing a lost historic feature or view
- introducing a wholly new feature that adds to the public appreciation of the asset
- introducing new views (including glimpses or better framed views) that add to the public experience of the asset, or
- improving public access to, or interpretation of, the asset including its setting

# Landscape/visual



- GLVIA3 parr 4.37 invites consideration of whether development can help to:
  - Improve the visual amenity of the area
  - Restore, reconstruct or provide new local landscape character and distinctiveness
  - Meet landscape management objectives (see published LCAs) – e.g. hedgerows, access to greenspace
  - Address specific issues e.g. habitat improvement, cultural heritage benefit



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# Environmental Impact Assessments

Ruchi Parekh

# EIAs: in the Courts



# Environmental Impact Assessments



## Prohibition on granting planning permission or subsequent consent for EIA development

3. The relevant planning authority, the Secretary of State or an inspector must not grant planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of that development.

## Environmental impact assessment process

4.—(1) The environmental impact assessment ("EIA") is a process consisting of—

- (a) the preparation of an environmental statement;
- (b) any consultation, publication and notification required by, or by virtue of, these Regulations or any other enactment in respect of EIA development; and
- (c) the steps required under regulation 26.

(2) The EIA must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the proposed development on the following factors—

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under **[F31]** any law that implemented **]** Directive 92/43/EEC **F32** and Directive 2009/147/EC **F33**;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape;
- (e) the interaction between the factors referred to in sub-paragraphs (a) to (d).

(3) The effects referred to in paragraph (2) on the factors set out in that paragraph must include the operational effects of the proposed development, where the proposed development will have operational effects.

(4) The significant effects to be identified, described and assessed under paragraph (2) include the expected significant effects arising from the vulnerability of the proposed development to major accidents or disasters that are relevant to that development.

(5) The relevant planning authority or the Secretary of State must ensure that they have, or have access as necessary to, sufficient expertise to examine the environmental statement.

# Environmental Impact Assessments



## Environmental statements

18.—(1) Subject to regulation 9, an EIA application must be accompanied by an environmental statement for the purposes of these Regulations.

(2) A subsequent application is to be taken to be accompanied by an environmental statement for the purpose of paragraph (1) where the application for planning permission to which it relates was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, but this is subject to regulation 9.

(3) An environmental statement is a statement which includes at least—

- (a) a description of the proposed development comprising information on the site, design, size and other relevant features of the development;
- (b) a description of the likely significant effects of the proposed development on the environment;
- (c) a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the developer, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment;
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and
- (f) any additional information specified in Schedule 4 relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected.

(4) An environmental statement must—

- (a) where a scoping opinion or direction has been issued in accordance with regulation 15 or 16, be based on the most recent scoping opinion or direction issued (so far as the proposed development remains materially the same as the proposed development which was subject to that opinion or direction);
- (b) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment; and
- (c) be prepared, taking into account the results of any relevant UK environmental assessment, which are reasonably available to the person preparing the environmental statement, with a view to avoiding duplication of assessment.

(5) In order to ensure the completeness and quality of the environmental statement—

- (a) the developer must ensure that the environmental statement is prepared by competent experts; and
- (b) the environmental statement must be accompanied by a statement from the developer outlining the relevant expertise or qualifications of such experts.

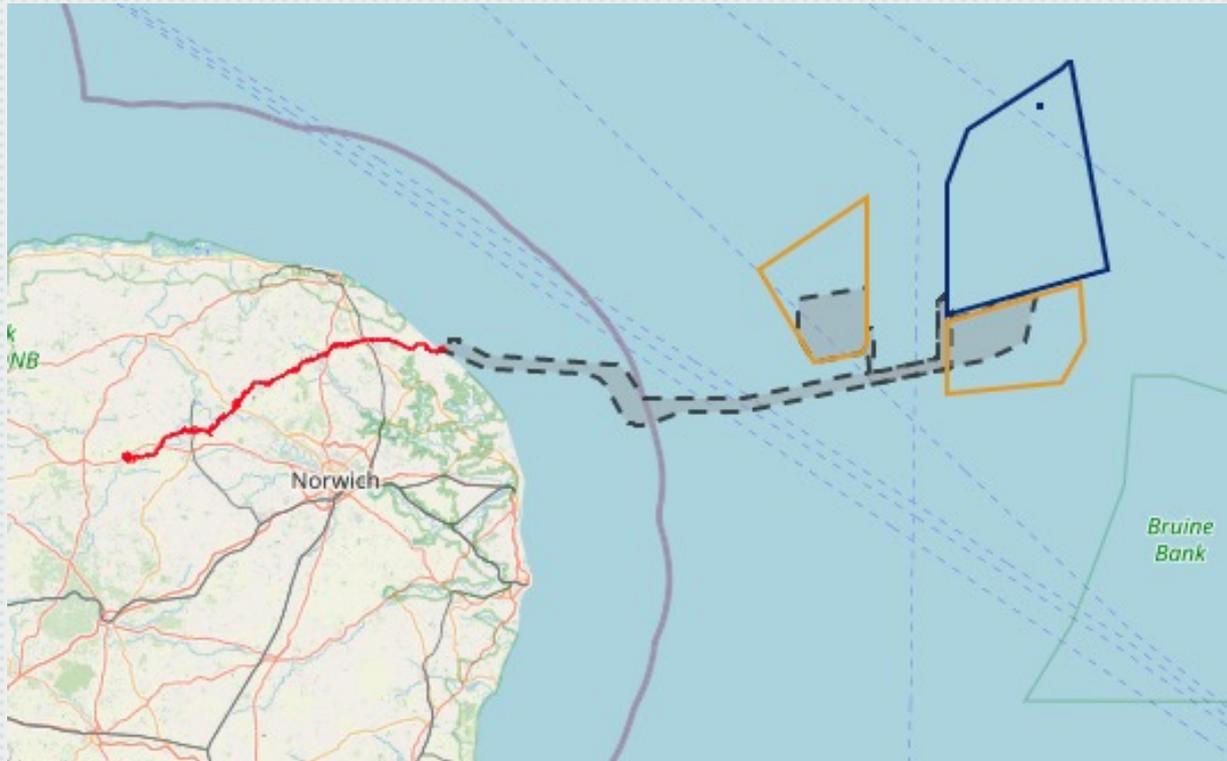
# Environmental Impact Assessments



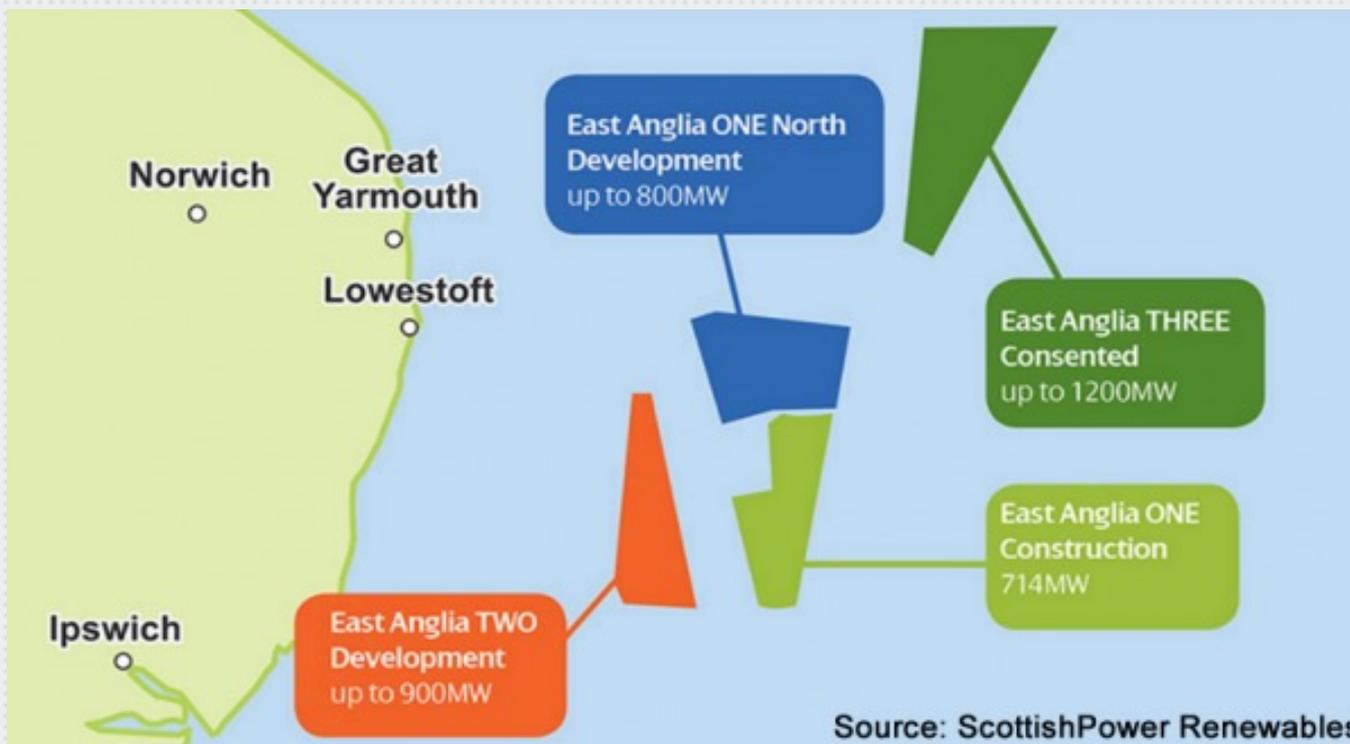
## Schedule 4 – information for inclusion in the ES

- Development
- Reasonable alternatives
- Baseline scenario
- Factors likely to be significantly affected
- Likely significant effects (“LSE”) resulting from:
  - (among other matters)
  - *“cumulation of effects with other existing and/or approved projects”*
- LSE should cover indirect, secondary, cumulative, transboundary, short-term, medium-term, long-term, permanent and temporary, positive and negative effects

# Norfolk Vanguard challenge



# EA1N and EA2 challenge



# Sizewell C challenge\*



# EIAs: staying out of Court



- Does the ES provide sufficient information?
- Is this a Single Project?
- Does ES cover cumulative impacts?
  - Must include level of information that could reasonably be provided at this stage.
- Can assessment be deferred?
  - E.g. where effect judged as not significant, but where further information and approval will be required.
  - E.g. is the second project/proposal “inchoate” or not yet formulated?

# EIA: staying out of Court



*“cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources”*

See:

- *R (GOESA) v Eastleigh BC* [2022] EWHC 1221 (Admin) (Southampton Airport): §§93-98
- *R (SASES) v SSBEIS* [2022] EWHC 3177 (Admin) (EA1N/EA2 windfarms)
- PINS Advice Note 17 for NSIPs



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## Any questions?

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