



Department for
Communities and
Local Government

Mr James Walker
Pegasus Group
Pegasus House
Querns Business Centre
Whitworth Road
CIRENCESTER
Gloucestershire
GL7 1RT

Our Ref: APP/J3530/A/13/2193911

Your Ref: CIR/H.0311

22 May 2014

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY HIVE ENERGY LIMITED
HORSE CLOSE, CHURCH FARM, HACHESTON, SUFFOLK IP13
APPLICATION REF: C12/1899**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Paul Jackson B Arch (Hons) RIBA, who held a public local inquiry from 25 September to 1 October 2013 into your client's appeal against the refusal of Suffolk Coastal District Council ("the Council") to grant planning permission for the construction of a solar park to include the installation of solar panels to generate up to 25MW of electricity, with transformer housings, security fencing and cameras, landscaping and other associated works, in accordance with application ref: C12/1899, dated 31 August 2012.
2. On 23 December 2013 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves a renewable energy development.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where indicated otherwise, and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising after the close of the Inquiry

4. The Secretary of State wrote on 19 March 2014 to the main inquiry parties, inviting comment on the implications of the recent Court of Appeal decision in Barnwell Manor

Julian Pitt
Planning Casework Division
Department for Communities and Local Government
1/H1, Eland House
Bressenden Place
London, SW1E 5DU

Tel 0303 444 41630
Email pcc@communities.gsi.gov.uk

Wind Energy Limited v East Northamptonshire District Council and others (EWCA Civ 137) for this case; and on the new planning practice guidance. The responses received were circulated to the main parties for further comment on 7 April 2014. Representations were received from Suffolk Coastal District Council dated 3 April 2014; Hive Energy Ltd dated 3 April 2014; Chrissie Darby dated 3 April and 16 April 2014. The Secretary of State has taken account of all these representations in his consideration of the appeal before him. As the responses were circulated to the main inquiry parties, he does not consider it necessary to summarise the responses here or attach them to this letter. Copies of the correspondence can be obtained upon written request to the address at the foot of the first page of this letter.

Policy considerations

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies (CSDMP) adopted in July 2013, together with saved policies of the Suffolk Coastal Local Plan incorporating the First and Second Alterations (LP) of 2001.
6. Material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework, March 2012); the Community Infrastructure Levy (CIL) Regulations 2010 as amended and the national planning practice guidance issued in March 2014.
7. Other considerations include the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), read with the Overarching NPS for Energy (EN-1), both dated 2011; UK Renewable Energy Strategy and the UK Low Carbon Transition Plan; The UK Renewable Energy Roadmap (the Roadmap) update published in December 2012 and November 2013; the UK Solar PV Strategy Part 1 published in October 2013 and Part 2 published in April 2014 and the Suffolk Landscape Character Assessment 2008 as updated in 2011.
8. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA), the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess..

Main issues

Landscape character and visual impact

9. For the reasons given at IR185-199, the Secretary of State agrees with the Inspector's conclusion in IR200 that a major/moderate adverse impact is likely on the landscape and for recreational users and occupiers on the north side of the development. He also agrees that there would be a moderate impact from other viewpoints that would reduce if and when mitigation planting matured over the first 5 years. However, for reasons given at IR174-183 the Secretary of State agrees that the section 106 Unilateral Undertakings, agreement and submissions intended to ensure that the proposed mitigation planting actually occurs and is retained as an effective screen are insufficiently clear and should be given little weight (IR200). As such there is no guarantee that mitigation planting will occur or be maintained for the life of the

development. He concurs that the harm would conflict with the relevant Local Plan policies and he places significant weight on this harm.

The effect on the setting of listed buildings and other heritage assets

10. In determining this appeal, the Secretary of State places considerable importance and weight on the desirability of preserving the settings of the listed buildings referred to in paragraph 8 above. For the reasons given at IR201-209, the Secretary agrees with the Inspector's conclusion in IR210 that there would be slight harm caused to the settings of Abbey Farmhouse and Moat Hall, but that the rural settings of Parham Old Hall would be significantly harmed. He agrees that the harm to the setting of Parham Old Hall would conflict with the heritage protection objectives of the Framework.
11. The Secretary of State does not agree with the Inspector that weight should be given to the potential for the land to return to agricultural use after 25 years, leaving the setting of heritage assets unaffected after that time (IR209). Whilst the harm caused would be both temporary and reversible, the Secretary of State regards 25 years as a significant length of time over which harm to the setting of Parham Old Hall would be endured. Accordingly he considers that the reversibility of the scheme should not be an influential factor in determining this appeal.
12. The Secretary of State agrees with the Inspector that the harm to Parham Old Hall would fall short of the level of 'substantial harm' in terms of paragraph 133 of the Framework. However he places significant weight on this harm (IR220).

Other matters

Noise

13. For the reasons given at IR211-213, the Secretary of State agrees with the Inspector that a condition limiting noise levels is the only way some assurances can be obtained that noise levels would be acceptable (IR211).

Sport and Ecology

14. For the reasons given at IR214-215, the Secretary of State agrees with the Inspector's conclusions in these paragraphs in regard to sport and ecology.

Agricultural land quality

15. For the reasons given at IR216-217, the Secretary of State agrees with the Inspector that the 25 years loss of production on that proportion of the site which is classified as sub grade 3a 'best and most versatile' agricultural land counts against the proposal as no agricultural operation is proposed after the panels are installed.

Conditions

16. The Secretary of State has considered the Inspector's reasoning and conclusions at IR165-173 on the proposed planning conditions. He is satisfied that the proposed conditions are reasonable and necessary and meet the tests of paragraph 206 of the Framework. However, he does not consider that these conditions would overcome his reasons for dismissing the appeal.

Overall balance and conclusion

17. The Secretary of State agrees with the Inspector's conclusions at IR219-224, except that he does not consider that the reversibility of the scheme should be an influential factor in determining this appeal.
18. The production of between 25-30MW of electricity is a very significant factor in favour of the scheme.
19. However, there would be a major/moderate adverse impact on the landscape as perceived from the north side of the development and a similar visual impact for local recreational walkers and occupiers of Parham Old Hall. There is significant doubt that maintenance and retention of the mitigation planting could be ensured for the 25 years of the scheme on the basis that the Unilateral Undertaking and associated agreements carry little weight. This is a critical consideration because of the site's location in an area of countryside that is of special quality. The Secretary of State places significant weight on the harmful visual impacts. The setting of listed Parham Old Hall would be significantly harmed by the development and the Secretary of State also attaches significant weight to this harm. The loss of a substantial area of productive agricultural land for at least 25 years is another negative factor.
20. In summary, the Secretary of State considers that the disadvantages significantly outweigh the benefits of the scheme. The proposed solar park cannot be made acceptable and would conflict with the Local Plan and the Framework.

Formal Decision

21. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction of a solar park to include the installation of solar panels to generate up to 25MW of electricity, with transformer housings, security fencing and cameras, landscaping and other associated works, in accordance with application ref: C12/1899, dated 31 August 2012.

Right to challenge the decision

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
23. A copy of this letter has been sent to Suffolk Coastal District Council. A notification e-mail or letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Julian Pitt

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 4 March 2014

Town and Country Planning Act 1990

Suffolk Coastal District Council

Appeal by

Hive Energy Ltd

Inquiry opened on 25 September 2013

Horse Close, Church Farm, Hacheston, Suffolk IP13

File Ref: APP/J3530/A/13/2193911

INDEX

	Page
Preliminary Matters	1
The Proposal	1
Planning Policy	2
The Case for Hive Energy Ltd	6
The Case for Suffolk Coastal District Council	15
The Case for No Hacheston Solar	23
Interested Parties	32
Written Representations	35
Planning Conditions	36
The Unilateral Obligation	37
Inspector's Conclusions	39
Formal Recommendation	48
Annex 1 - Appearances and Inquiry Documents	49
Annex 2 - Schedule of Conditions	50
Annex 3 - Core Documents list	54

File Ref: APP/J3530/A/2193911

Horse Close, Church Farm, Hacheston, Suffolk IP13

- The application was recovered for decision by the Secretary of State by a direction, made under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 23 December 2013.
- The appeal is made by Hive Energy Ltd against the decision of Suffolk Coastal District Council.
- The application Ref C12/1899, dated 31 August 2012, was refused by notice dated 8 February 2013.
- The development proposed is construction of a solar park to include the installation of solar panels to generate up to 25MW of electricity, with transformer housings, security fencing and cameras, landscaping and other associated works.

Summary of Recommendation: That the appeal be dismissed.

Preliminary matters

1. The Inquiry took place over 4 days and closed on 1 October 2013.
2. Prior to the Inquiry, 'Rule 6' status was granted to a group of residents 'No Hacheston Solar' (NHS).
3. The address provided on the application form is as given above. A more accurate description of the site location is that on the appeal form: Part land north of Easton Lane, Hacheston, Suffolk.
4. In addition to the accompanied site visit held on 1 October, extensive unaccompanied visits were carried out in the surrounding area at other times including public rights of way, viewpoints and other locations mentioned by the parties.
5. After the Inquiry had closed but before recovery of the appeal for decision by the Secretary of State, new guidance was published by the Department for Energy and Climate Change; the *UK Solar PV Strategy Part 1: Roadmap to a Brighter Future*, published October 2013, and the *UK Renewable Energy Roadmap Update 2013*, published in November 2013. The main parties were given the opportunity to comment on these documents. The responses have been taken into account in this Report¹.

The proposal

6. The following description is largely taken from the Design and Access Statement and the Statement of Common Ground. The application site consists of a single large arable agricultural field which covers an area of 51.29ha (127 acres) situated to the north of Easton Lane and approximately 300m to the west of the village of Hacheston. The site is mostly on the generally level plateau area between the River Deben valley to the south west and the River Ore valley to the east. The highest part of the site is the north western corner at an elevation of approximately 40 metres (m) AOD and slopes gently eastwards to the eastern boundary at about 30m AOD. The majority of the site has an open character and

¹ Doc 22

an easterly aspect, with views across the River Ore valley to areas of rising ground to the east which is at a similar elevation to the site.

7. The north eastern corner of the site falls towards a ditch along the northern boundary at just below 25m AOD. Beyond the eastern edge of the site, the landform falls noticeably towards the village of Hacheston at an elevation of approximately 15m AOD. This sloping ground effectively screens most of the site in views from within Hacheston. A number of buildings and properties lie adjacent or close to the boundary of the application site including Whinfield House to the south west, Abbey Farm to the south, Parham Old Hall to the north east and various buildings around Blomvyle Hall to the south east.
8. The western edge of the site is strongly defined by areas of mature woodland, some of which are identified as ancient woodland. Maids/Brockley Woods and Ash Grove to the west of the site is designated a County Wildlife Site (CWS). It is an extensive complex of woodland comprising hazel, maple, ash, and hornbeam, part of which provides habitat for nightingales. A 'buffer' zone would be provided between the panels and the CWS. Within the site itself there is a copse of woodland known as Horseclose Belt, consisting mainly of oak and ash trees. To the east of this there is a small pond surrounded by vegetation including a mature oak tree.
9. A large electricity sub-station (the Wickham Market sub-station) lies adjacent to the north eastern corner. A line of major pylons extends from this point north westwards across part of the site and northwards into open countryside. A further 33KV power line extends south and then south west from the sub-station and this defines the eastern and southern boundaries of the site. There is vehicular access to the site from the B1116 via the existing concrete roadway to the sub-station.
10. The proposed development would consist primarily of panels about 2.2m high which would be deployed across the site in rows, supported on steel frames. Cabinets accommodating an inverter, transformers and associated switch gear would be situated in small brick buildings at various points and a control room would be built near to the existing sub-station. Within the field the panels will be arranged in long rows running from east to west. Each array will be mounted so that the panels are facing true south and spaced approximately 8m apart. The rows would be set back from the existing proposed planting along the site boundaries in order to minimise over shadowing of the solar panels. Security fencing would be installed on the boundaries where biodiversity enhancements and hedgerow improvements are envisaged. The new control room/sub-station would be sited in close proximity to the nearest overhead connection to the site which lies in the north eastern corner of the site adjacent to the Wickham Market sub-station.

Planning policy

11. The development plan consists of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies (CSDMP) adopted in July 2013, together with saved policies of the Suffolk Coastal Local Plan incorporating the First and Second Alterations (LP) of 2001. Policy AP8 of the LP referred to in the first reason for refusal is replaced by strategic policies SP19, SP28 and SP29 of

the CSDMP and policy AP98² by SP12. Policy AP13 is saved and remains part of the development plan. Policy AP5 referred to in the second reason for refusal, concerning the impact on the setting of listed buildings, ceased to exist after July 2013. There is no current replacement policy. The National Planning Policy Framework (NPPF) provides guidance on national policy for the historic environment.

12. Policies SP19 and SP28 relate to settlement policy and are not directly relevant to renewable energy proposals. Policy SP29 notes that the countryside comprises an important economic, social and environmental asset which it is important to sustain. It advises that new development outside settlements should be limited to that which of necessity requires being located there and accords with other relevant policies, such as SP7, which encourages small scale farm and rural diversification enterprises and agriculture.
13. Saved policy AP13 concerns the Special Landscape Area (SLA) and advises that within the SLAs shown on the proposals map, comprising the valleys and tributaries of the Rivers Alde, Blyth, Deben, Fynn, Hundred, Mill, Minsmere, Ore and Yox, no development will take place which would be to the material detriment of, or materially detract from, the special landscape quality. The explanatory text says that the SLA is particularly vulnerable to change, including some river valleys which still possess traditional grazing meadows and marshes with their hedgerows, dykes and associated flora and fauna. As far as this proposal is concerned, the relevant SLA is that encompassing the upper valleys of the Deben, the Ore and the Alde.
14. CSDMP policy SP15 is referred to as a (then) emerging policy. It seeks to protect and enhance the various landscape character areas. The valleys and tributaries of the Rivers Alde, Blyth, Deben, Fynn, Hundred, Mill, Minsmere, Ore, Orwell and Yox are referred to as being particularly significant. This policy also advises that many of the towns and villages are of distinctive historical and architectural value as well as landscape value and character; the Council will seek to enhance and preserve these attributes.
15. With regard to renewable energy, policy SP12 of the CSDMP encourages and promotes schemes which create renewable energy where consistent with the need to safeguard residential amenity, the environment and the landscape. The explanatory text says that in accordance with national and global priorities, addressing the impact of climate change will be at the forefront of the Core Strategy.
16. National policy as a whole supports and encourages the development of renewable energy sources. As a result of EU Directive 2009/28/EC, the UK is committed to a legally binding target to achieve 15% of all energy generated from renewable resources, including electricity, heat and transport, by 2020. The 2006 Energy Review has an aspiration that 20% of electricity is to be from renewable resources by 2020. The overarching strategy to reduce carbon emissions to meet the requirements of the Directive and the Climate Change Act is contained in the UK Renewable Energy Strategy and the UK Low Carbon Transition Plan; the lead scenario is that 30% of electricity is to be derived from renewable resources by 2020, though this is not binding. The UK Renewable

² LP policy AP98 is not saved

Energy Roadmap (the Roadmap) was published in 2011 and focuses on 8 technologies which are considered to offer the greatest potential to deliver the infrastructure to meet the target. At the time, these did not include solar photovoltaics (solar PV), but an update to the Roadmap was published in December 2012 which confirms that solar PV is now identified as a key technology because costs have fallen and deployment has dramatically increased. By June 2012, there was a total of over 1.4 Gigawatts (GW) of renewable solar PV capacity.

17. The UK Solar PV Strategy Part 1 was published in October 2013. The Government notes the popularity of solar PV and aims to ensure it is appropriately sited, and allows for greater community engagement. It expects on-going deployment of the technology to continue at all scales. However a guiding principle is that proposals need to be appropriately sited, giving proper weight to environmental considerations such as landscape and visual impact, heritage and local amenity, and providing opportunities for local communities to influence decisions that affect them. Visual amenity, land use and other environmental impacts are important considerations within the planning process. Citing the example of the National Trust, the document points out that with informed and careful planning and appropriate detailing, solar PV can be considered as appropriate in sensitive landscapes and on designated buildings.
18. Solar PV was one of the eight key technologies set out in the Renewable Energy Roadmap Update 2012. The Roadmap Update of November 2013 advises that total solar PV capacity grew by 1.0 GW between July 2012 and June 2013, representing a 70% increase and bringing total installed capacity to 2.4 GW. There is also significant potential for further deployment. Analysis indicates that there is a potential deployment range of 7-20 GW, with 20 GW being the current estimate of the technical maximum level of solar PV deployment by 2020. The Roadmap update indicates that a solar PV strategy is to be published in 2014 which is expected to outline the Government's approach more fully. The aim is to create more financial certainty and investor confidence in order to realise the long term potential for solar PV in the UK at a large and small scale.
19. There is no cap on capacity. New proposals are needed to meet the 2020 ambition and longer term decarbonisation. It is the Government's aspiration, set out in the Climate Change Act, to cut carbon dioxide emissions against the 1990 baseline by at least 80% by 2050.
20. The National Planning Policy Framework (NPPF) of 2012 replaced the previous Planning Policy Statements (PPSs) and Planning Policy Guidance Notes, though the PPS5 Planning for the Historic Environment Practice Guide (PPS5CG) remains extant. The NPPF says at paragraph 98 that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved if their impacts are (or can be made) acceptable. The NPPF advises that local authorities (or decision makers) should follow the approach set out in the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), read with the Overarching NPS for Energy (EN-1), both dated 2011. Paragraph 14 of the NPPF sets a presumption in favour of sustainable development lies at the heart of the NPPF. Paragraph 17 specifically supports the transition to a low carbon future in a changing climate and encourages the use of renewable resources.

21. The advice needs to be read as a whole. Particularly relevant is paragraph 5.9.18 of EN-1 which advises that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed areas and that a judgement has to be made on whether the visual effects on sensitive receptors, such as local residents and visitors to the area, outweigh the benefits of the project.
22. The Ministerial Statement of 6 June 2013 draws attention to some local communities' genuine concerns that insufficient weight is being given to environmental considerations like landscape, heritage and local amenity. It advises that the subsequent guidance in the Planning Practice Guidance for Renewable Energy (PPGRE) issued in July is intended to get the balance right in line with the NPPF. The PPGRE is a material consideration that should generally be followed unless there are good reasons not to. In identifying the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms, it advises that their deployment can have a negative impact on the rural environment, particularly in very 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 previously developed land, and if a proposal does involve greenfield land, that it allows for continued agricultural use and/or encourages biodiversity improvements around arrays;*
 - *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 effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
 - *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.*
23. The guidance goes on to state that: *The need for renewable or low carbon energy does not automatically override environmental protections. Cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases. Local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas. 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. Proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration. Protecting local amenity is an important consideration which should be given proper weight in planning decisions.

24. In accordance with the duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard needs to be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess.
25. Draft National Planning Practice Guidance (DNPPG) has been published online and is a material consideration. At the current time, it carries only limited weight.

The Case for Hive Energy Ltd

The main points are:

26. In addition to the points raised on landscape and visual impact and cultural heritage (CH) matters, NHS had a number of other concerns.
27. NHS argued that the site comprises best and most versatile agricultural land, and that paragraph 112 of the NPPF is engaged such that areas of poorer quality land should be used in preference to that of higher quality, where 'significant development' of agricultural land is deemed necessary. The appellant undertook an agricultural land classification assessment which demonstrated that only 34% of the area of the site and mitigation areas could be considered to comprise best and most versatile agricultural land, and even that fell within Grade 3a, the lowest of the best and most versatile grades. This was not challenged in evidence. The site generally comprises poorer quality land than the general area. On that basis, there will be no conflict with paragraph 112.
28. The construction methods used and the spacing between the panels mean that the land would not be irreversibly lost to agriculture. It is perfectly possible that the site could continue to be used for agricultural purposes during operation and certainly following removal of the panels on decommissioning, with no loss of agricultural land quality. Because of this, the development does not represent 'significant development' of agricultural land in any event. Further concerns were raised that the piling operation to install the frame could sever the clay pipe drainage system, but this could be repaired relatively easily and again would not lead to any degradation of agricultural land quality. Such mitigation could readily be addressed by a suitably worded condition. The land will not be permanently lost to agricultural production and certainly not to a level sufficient to outweigh the urgent need for renewable energy generation.
29. Concerns were also raised about the potential effect on the rural economy. The appellant's evidence attempted to quantify the current contribution, and whilst there was some discussion during the Inquiry as to the potential yield of the appeal site given anecdotal evidence of the productivity of the land to the north, it is the appellant's view that it would be wrong to conclude that the site would cease to make a contribution. Labour generation would be needed for panel installation, and for ongoing management of the site and mitigation measures. The development will also generate income to the farm business, at least a proportion of which would be reasonably expected to be recycled in some way

through the rural economy through other activities on the remaining holding of the landowner. Whilst the net effect is impossible to precisely quantify, the evidence demonstrates that it is certainly not of a magnitude to be a weighty material consideration and therefore certainly not enough to outweigh the urgent need for projects of this kind.

30. Turning to impacts on the commercial shoot operating in the vicinity of the site, the shoot currently operates on the appeal site under an annual licence which could be terminated at any time at the behest of the landowner. That is simply a commercial reality which the shoot has to recognise. One drive will be lost, with all others being able to be reconfigured. Whilst further concerns were raised concerning the impact of shot falling on the solar panels, it has been demonstrated that part of the testing procedure for these panels includes the firing of ice pellets to simulate falling hailstones, and there is no reason to suggest that the impact from falling shot will be any greater. Further concerns were raised about bird retrieval, but the majority of birds would fall within the ecological management buffer to the west of the site. Those that do reach the site are more likely to be winged and difficult to recover when the site was in agricultural production in any event. There is no basis for concluding that there will be serious effects on the shoot, nor on the valuable contribution that the shoot currently makes to the management of the CWS as a result.
31. The appellant does not place a great deal of reliance on the proposal as a farm diversification project in the promotion of this scheme, though the income stream to the farm will diversify as a result. The project is clearly one which the Council must themselves regard as a farm diversification project since that section of its Core Strategy is immediately preceded by a photograph of ground mounted solar panels on agricultural field, which is a point that has seemingly passed NHS by³.
32. NHS raised concerns over tourism, but was unable to present any evidence demonstrating a causal link. In response, the appellant referred to surveys which had been undertaken in relation to the onshore wind industry and which could demonstrate no causal link between the development of turbines (which generally have a far greater visual impact than this proposal) and any adverse effects on tourism. NHS also raised concerns over the potential noise emitted by the proposed inverters. The appellant's evidence clarified that only nine inverters are needed as shown on the application plans, and LFAcoustics demonstrate that background noise surveys were not necessary due to the rating level of the inverters falling below 35dB. Such an approach is in accordance with BS4142⁴.
33. BS8233 provides that for new buildings a level of 30dB within habitable rooms represents a good standard of noise, with 35dB representing a reasonable standard within bedrooms at night. World Health Organisation guidelines recommend that noise levels within bedrooms should not exceed 30dB, but notes that the attenuating effects of an open window will be between 10 and 15dB meaning that night time external noise levels should ideally remain below 40dB. Even applying a worst case scenario of the inverter fans being located on the property side of the inverter buildings and applying a 5dB penalty for any tonal element, noise levels would be no more than 32dB at Hall Cottages, that being

³ See page 99 of the Core Strategy

⁴ Doc 16

the nearest property. There is no reason to conclude that any noise issues will result from the development.

34. NHS raised concerns over various ecological interests, being generally concerned with what is perceived as a failure to undertake adequate surveys. A series of ecological surveys were undertaken including an Extended Phase 1 Habitat Survey. This comprised a desk-based study and field survey of the site and adjoining areas. In the light of the ecological interests identified, the report recommended that no further detailed survey work was necessary. Consequently bat species would not be affected by the proposals, and through enhancement measures such as extensive hedgerow planting, the site will become more valuable to roosting foraging commuting bats.
35. Any impacts on skylarks would be extremely limited and these will be far outweighed by the provision of an undisturbed good food resource for adults and young birds in the proposed grassland buffers at the western boundary of the site. Similarly for barn owl, there will be no removal of nesting habitat with the only potential impact being the loss of low value foraging habitat which would again be outweighed by the provision of the 50m ecological corridor to the west of the site. The site is of low value to nightingale and there should be no impacts on habitats used by them.
36. There would be no potential for the proposals to compromise the objectives of the neighbouring CWS as the reasons for its designation lies primarily in its woodland habitat which will be undisturbed. The 50 metre ecological corridor represents an enhancement to the wildlife resource in the area which should be put on the benefit side of the planning balance.
37. NHS considered that a sequential approach to site selection should have been adopted to justify the grant of permission on agricultural land. That point is simply not accepted: The case of Derbyshire Dales District Council & Peak District National Park Authority v. the Secretary of State for Communities and Local Government & Carsington Wind Energy Limited dealt with a similar issue in relation to wind farm development⁵. There is no statutory or policy obligation to consider alternatives engaged by this development. There are certainly none in the recently adopted Core Strategy. Whilst policy AP98 of the 2001 Local Plan stated 'in special landscape areas, the District Council will require evidence of a lack of alternative sites outside the SLA before such proposals will be permitted' that policy no longer forms part of the development plan. In contrast, EN-1 notes at paragraph 4.4.1: 'As in any planning case, the relevance or otherwise to

⁵ The judge said: 'It seems impossible to say that there is anything in the statute or the relevant policies which expressly or impliedly required of the inspector to consider alternatives, particularly as none have been identified. The emphasis in section 78 is on consideration of the particular application in question. The statutory provisions and policies relating to the National Park and Conservation Areas required special regard to be paid to their protection that they fell short of imposing a positive obligation to consider alternatives which might not have the same effect. That is left as a matter of planning judgment on the facts of any case. I accept that, if there had been specific national or local policy guidance requiring consideration of alternatives, failure to have regard to it might provide grounds for intervention by the court. However, Mr Crean was unable to point to any such requirement. For example, Planning Policy Statement 22 on 'renewable energy' which sets out 'key principles' for planning authorities (para 1) makes no such reference. Mr Crean pointed to principle (XVIII), which required proposals to demonstrate how environmental and social impact (have been minimised through careful consideration of location, scale, design and other measures). I accept that the reference to 'careful consideration of location' may be said to imply a need for the developer to be able to demonstrate the particular merits of the selected site, but it is far from requiring the decision maker in every case to review potential alternatives as a matter of obligation. It is left as a matter of planning judgment on the facts of the case. That is how the inspector approached it, and he was entitled in law to do so.'

the decision making process of the existence (or alleged existence) of alternatives to the proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. From a policy perspective this NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option'.

38. Nor is any policy requirement to consider alternatives to be implied as a result of paragraph 112 of the NPPF. The guidance that 'where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality' does not carry any requirement that consent on agricultural land should only be granted in the absence of any alternatives, and in any event, this site is of relative poorer quality compared to that of the rest of the district. The scheme does not represent 'significant development' because of its reversible nature, and no evidence is offered as to the availability of alternative sites.

Landscape

39. On landscape matters, NHS relied upon a report commissioned from Anne Westover but she did not appear to have her evidence tested. The impacts discussed were geographically extremely limited. From all but viewpoints immediately adjacent to the field on which the project will be sited on Easton Lane, a relatively short section of public footpath to the north of the site on a narrow line of sight within approximately 600m of the site boundary, and a very short section of public footpath approximately 1 km to the east of the site around Moat Hall, all impacts were agreed by the Council to be acceptable. That illustrates just how well sited this project is, and it is remarkable that the project generating 25MW of renewable energy can result in so few impacts compared with those of other technologies of similar generating capacity.
40. The majority of the site occupies a gently sloping plateau in the Ancient Estate Claylands landscape character type (LCT). The boundaries of the appeal site have been drawn such that it avoids the more sensitive valley sides towards Hacheston. The LCT is already characterised by power infrastructure. The site is adjacent to the Wickham Market substation and is crisscrossed by existing pylons. The overall visual envelope of the power infrastructure would not be extended further, even before mitigation is introduced. As a result of the mitigation planting along the southern boundary of the site it is anticipated that views of the substation would no longer be possible from Easton Lane which must be seen as a beneficial effect of the project. The Council acknowledged that some observers are able to visually filter out such features and this shows that this LCT has the capacity to absorb electricity infrastructure without undermining its characteristics. That conclusion is borne out further by the recent consenting of the project at Parham Airfield in the same LCT.
41. It is common ground that after mitigation, the development would not be visible from Easton Lane as it would be completely screened by hedgerow planting. The crucial difference between the parties concerns how long the mitigation planting would take to establish itself. It is the appellant's view that this would take up to five years, although this could be significantly shortened if a higher specification of planting were required. That is something that could easily be secured by condition and lies within the control of the Council. Given the Council's position

at Parham Airfield that a five year establishment period was acceptable, there is no reason why it should not equally be acceptable on this proposal and therefore there is no reason to conclude that impacts from Easton Lane could not be completely mitigated within a reasonable time period.

42. In visual impact terms that would just leave impacts from the short section of public footpaths to the north and those around Moat Hall. The Council's landscape witness acknowledged that the test of visual acceptability was whether the site could be completely screened. That amounts to no visual impact, and there is simply no support for such a draconian approach in national or local planning policy and guidance. Paragraph 27 of the PPGRE notes the potential to mitigate landscape and visual impacts through screening with native hedges and advises decision makers to consider the effect on landscape of glint and glare. The clear implication is therefore that such projects will be visible. In any event, the Council acknowledged the impacts will be acceptable if the key landscape characteristics of the Ancient Clayland's LCT were not undermined. That is a far more sensible position to adopt and a threshold which cannot conceivably be crossed.
43. Turning to the impacts on views from the public footpath to the north, mitigation planting of native hedgerow and trees would reinforce the historic field boundaries. This would form a continuous boundary between 2.5 to 6 metres in height after five years. Whilst there will be some residual visual impact once planting has become established, this will largely merge into the new and existing vegetation which will form both the foreground and the backcloth to the view of the rear of the panels. This view would be experienced in the context of the existing substation and overhead power lines and appear contained within the existing landscape features which would be reinforced in this view. Accordingly in the long term the effects will be negligible rising to beneficial.
44. It is simply not accepted that views of the project from Moat Hall can have any prospect of having a material effect on either visual amenity or landscape character. At this distance, the panels will be barely discernible, being located on the plateau section of the appeal site and not the eastern slope. The panels will be seen against the backcloth of the existing woodland and would not be conspicuous. Even those impacts would only be experienced from a very short section of public footpath and in the context of old farm and airfield buildings and would not detract from the far more attractive view of Moat Hall⁶.
45. A further objection was on the basis that proposed mitigation planting does not follow any historic field boundaries. The rationale for this is not quite clear. None of the historic internal field boundaries remain on the appeal site and the various historic maps included in the appellant's witness's rebuttal proof demonstrate that those field boundaries have changed over time in any event. There is certainly no policy requirement to recreate historic field boundaries nor is it a recommendation of the Suffolk Landscape Character Assessment (SLCA) which recommends reinforcing (not recreating) the historic pattern of sinuous field boundaries. The historic field boundary to the north is being substantially reinforced by this proposal, and the eastern and southern boundaries reinforced to the historic field pattern of straight field boundaries with 90 degree junctions

⁶ Viewpoints 16 and 17

which are characteristic of the area. The resulting field created between the southern boundary of the site and Easton Lane will still be a substantial agricultural plot capable of commercial farming and not unlike similar fields elsewhere in the area.

46. This site lies within a SLA but neither that, nor any of the evidence before the Inquiry explains why it was so designated and what its 'special landscape qualities' are (to use the wording of saved policy AP13) which are thought to be protected.

Cultural heritage

47. The refusal notice refers to three heritage assets: Abbey Farmhouse, which lies to the south of Easton Lane; Parham Old Hall and Moat Hall Farm. NHS did not present any evidence on the significance of non-designated assets at Blomvyle Hall and Hall Farm, nor how that significance would be affected. The appeal site, despite its proximity, does not lie within the setting of Blomvyle Hall which is insular and constrained by the heavy tree belt and vegetation lying between it and the site which prohibit views of the site. Impacts at Hall Farm, which lies some 2km east, would be negligible. The panels would be barely perceptible at that distance.
48. The Council agreed that impacts on setting did not necessarily mean that the significance of the asset would be harmed. It is important to establish whether any harm to the significance of the asset derived from impacts to its setting amounts to "substantial harm" for the purposes of the NPPF. In reaching that judgement, the Council's CH witness agreed that it was appropriate to apply the guidance set out in the DNPPG which states '*A key factor in determining whether the works constitute substantial (i.e. serious) harm is if the adverse impact goes to the heart of why the place is worthy of designation – why it is important enough to justify special protection. This has to be assessed at the time of the decision in all cases*'. Despite that, the Council's CH witness has chosen to only look at those specific elements of setting that are affected. The appellant's witness, on the other hand, has considered all aspects which contribute to the significance of the asset, focused on the key elements of why it is worthy of designation and then reached a conclusion on the extent to which any impacts affect those key elements. This is the only true way in which one can gain an appreciation of the effects of the proposals on the significance of the asset. Therefore, whilst the Council highlights⁷ that the key contributors to the significance of Abbey Farmhouse comprise its built form, its principal elevation looking eastwards, and its relationship with former agricultural buildings which lie to the west, at no stage is there further analysis of the impact upon those elements. Consequently, the conclusions are unbalanced which is why the Council arrives at the conclusion of substantial harm because it does not look at the significance of the asset as a whole.
49. Abbey Farmhouse is a Grade II listed building originating from the 16th century. The main reason for its designation lies in its built form. It is common ground that there is no historic functional relationship between the farmhouse and the appeal site. Its historical associations are with the Glevering Hall Estate which lies to the east and south. That explains the orientation of Abbey Farmhouse.

⁷ Mr Scrimgeour's proof of evidence paras 3.1 to 3.4

Neither of these aspects will be affected by the proposals. The development will not be visible looking north towards the appeal site from the south, and from the east visibility will be restricted to the footpath that runs past the end of the garden on the eastern side. The extent of any view from that footpath would be time limited to the period of establishment of mitigation screening. No view should be possible from the eastern elevation or the garden of the property on that side. Those views that do exist will be from the garden to the rear of the property, although this will be heavily screened through the existing trees on its northern boundary. Given the intervening agricultural field, and mitigation planting, no views of the development will be possible from ground level once planting is established. Views from the first floor window on the western elevation will be possible to the western extent of the site, but the development will lie beyond farm buildings and would have only a very limited impact on the significance of the asset.

50. The heart of why Abbey Farmhouse is worthy of designation lies in its built form, particularly when experienced from the east and the south. Whilst the appeal site lies within its setting, the absence of any historic functional relationship, and the very limited opportunity to experience the significance of the asset in conjunction with the appeal proposals, particularly once mitigation has become established, means that it is not conceivable that this would amount to substantial harm.
51. Parham Old Hall is a Grade II listed building dating back to the 16th and 17th centuries. Its significance lies in its built form, which is mainly appreciated from the approach to the property from Hacheston, and from the south along the access road to the Wickham Market substation. No views of the appeal proposal will be possible in conjunction with an appreciation of those principal elevations, and no view is possible from the property at ground level. One has to go to a first floor window in the property to obtain any view, at which point the appeal site only forms a sliver on the horizon. The Council acknowledged that the visual impact of a similar extent of view from the neighbouring footpath⁸ was of negligible magnitude.
52. It is accepted that the appeal site forms part of the wider setting of the asset, but it contributes very little positively to that significance. The Council is concerned about the effect on the open aspect of the setting in which the asset is experienced and illustrated the worst case scenario⁹. Given that the asset is only just discernible in that view, against a backcloth of woodland, and that any visual relationship between it and the appeal site is heavily interrupted by the substation and the northern boundary of the appeal site will be reinforced further, there is simply nothing in the point. Any impact to the setting of the asset will be very limited and given the appeal site's limited contribution to the significance of the asset, very limited impact upon that significance. Again, it amounts to less than substantial harm.
53. Moat Hall Farm is a Grade II* listed building and scheduled monument dating back to the 16th century. Its importance is not in dispute. Its main significance lies in its built form which is best experienced from the public footpath approaching the entrance way from the southeast in the internal courtyard itself

⁸ Viewpoint 9

⁹ Appendix 13 of Mr Scrimgeour's proof of evidence

(neither of which would be affected by the proposals) and from the public footpath to the northwest around viewpoint 16. Whilst the appeal site will be visible from this location, such views will largely be oblique, as it would only occupy a thin sliver of the view beyond the pylon line. That part of the field which slopes down from west to east towards the valley will not be affected by the development. Impacts would be minor when seen against a backdrop of the existing woodland, and the Council graciously acknowledged that any impact would only be very limited and could not amount to a basis for dismissal of the appeal.

Planning Policy and Balance

54. There is no dispute between any of the parties as to the urgent need for renewable energy generation. The Government now sees solar power as a key technology in contributing to that need. It is common ground that the reasons for refusal therefore relate to saved policy AP13 of the old LP and policies SP12 and SP15 of the CSDMP and for the purposes of the NPPF the development plan may be regarded as up to date. Policy AP13 restricts development which “would be to the material detriment of, or materially detract from, the special landscape quality”. It is now common ground that the policy is not founded on a robust evidence base. Nowhere is there any appraisal of the special landscape area which sets out its special landscape qualities as referred to in the policy. This was precisely the position which the Secretary of State had to grapple with in the Sober Hill Wind Farm Appeal¹⁰. The Secretary of State concluded that the absence of a robust landscape appraisal underpinning the local landscape designation in that case was a material consideration to which he attached significant weight.
55. Since the Ancient Estate Claylands LCT washes over the boundary of the SLA there is nothing to highlight what is special about those characteristics located within the SLA as opposed to those outside. Given that difficulty, it is difficult to see how AP13 can give provide anything more than SP12 and SP15. That reflects the approach adopted by both landscape witnesses who have sought to assess the impacts of the scheme based upon the landscape character appraisal. To do otherwise would mean giving weight to an unsubstantial designation.
56. Policy SP12 creates a presumption in favour of renewable energy development where “consistent with the need to safeguard residential amenity, environment and the landscape”. These criteria are the manifestation of the Council’s interpretation of paragraph 98 of the NPPF. Should those elements be safeguarded then planning permission should be granted because impacts either are or have been made acceptable.
57. The very limited harm to the significance of heritage assets is not something that should weigh heavily in the planning balance against the benefits of this 25MW project. There is a further duty to consider the impact on the setting of the various heritage assets mentioned by virtue of the LBCA. The statutory requirement simply directs the decision maker to pay particular attention to the impacts on the setting of the listed building which may arise. The point was raised and addressed in the case of *Coleman v. Secretary of State for Communities and Local Government, North Devon District Council and RWE*

¹⁰ see Mr Cook’s Appendix 8, paragraph 11

Npower Renewables Limited. The duty was considered by the Judge at paragraph 68 which he summarised¹¹. The recommendation to largely follow the NPPF approach is commended.

58. On ecological matters, ecological enhancements will be secured and that approach is supported by paragraph 27 of the PPGRE. Clearly, that element of the environment will be safeguarded.
59. The impact on the proposed shoot would be limited and the site would not be permanently lost to agricultural production. The field created between the southern boundary and Easton Lane would be capable of being actively farmed. There is no reason to conclude that this element of the environment will not be safeguarded.
60. There can be no basis for asserting that the key characteristics of the Ancient Estate Claylands LCT are undermined. Should the mitigation planting and ecological enhancement measures be maintained beyond the life of the development, there will be a long term benefit in landscape terms. Such enhancement is advocated by the Suffolk Landscape Character Assessment (SCLA)¹².
61. Policy SP15 aims to “to protect and enhance the various landscape character areas within the District” and this policy would be satisfied. If landscape is safeguarded for the purposes of policy SP12, it would be nonsensical for that development-specific policy which incorporates consideration of impacts on the landscape to be outweighed by a general policy of landscape protection.
62. With regard to securing the future maintenance of the proposed mitigation and ecological buffer, it is acknowledged that this land falls outside of the red line of the application site. However, the works to be undertaken in those areas are not matters which in themselves require the grant of planning permission. The appellant has demonstrated that the land lies entirely within the control of the option holder and that measures are in place via the lease to secure its future maintenance by the developer. Any condition of the sort imposed by the Secretary of State in his decision on the Culworth Grounds Appeal¹³ should provide the necessary degree of insurance over its delivery and future maintenance.
63. In final conclusion, the project is commended as a well designed and suitably located project which can meet the urgent need for renewable energy development identified. It accords with the Development Plan, and therefore as advised by paragraph 14 of the NPPF, planning permission should be granted.

¹¹ *‘In my view, the Inspector did give in this case “special regard” to the consideration referred to in Section 66(1) of the PLBCA. He did so by carrying out a careful and detailed assessment of the impact on the setting of the listed buildings in question. If all instances but one there was no such impact or the impact was such that it could in effect be discounted in the decision making. The Inspector did have real concern about one listed building and found that the impact was significant. However, he was then required, first to evaluate the extent of that impact and to weigh the negative impact against the substantial benefits of the development in accordance with the NPPF. The impact on the one building was less than substantial, and even if special weight were attached to the impact, the overall negative effects were limited and could not outweigh the benefits of the development’*

¹² (see page 5.3 of Mr Cook’s Appendix 5)

¹³ See Doc 14

The Case for Suffolk Coastal District Council

The main points are:

64. The Council may have been recommended by officers to give planning permission for the appeal scheme on 23 January 2013. However, the appeal must be considered on its merits and in the light of the current policy context (recognising the adoption of the CSDMP and the publication of the PPGRE since that recommendation), and in the light of the evidence now available (including as it does two expert appraisals of the landscape and visual impact of the proposals neither of which were available to the planning case officer when he made his recommendation).
65. It is also necessary to recognise that the scrutiny that an inquiry involves does sometimes throw up additional issues not grappled with by the case officer, and when it does those issues need to be taken into account. In this case it would appear that the question of whether the appellant has sufficient control over the land required for mitigation may still need addressing.
66. The Council has an up to date Development Plan. This makes it clear what development is and is not acceptable. The appellant's claim that "in some regards the development plan is out of date"¹⁴ has not been supported by substantial evidence, and it is recognised that AP13 has "a relatively high degree of consistency with the NPPF"¹⁵. This is not a case in which "other material considerations" might indicate a decision to grant permission in conflict with the Development Plan. Policy SP12 "safeguards" or "protects" residential amenity, the environment and the landscape, such that a failure to do so should result in permission being refused. Other relevant policies of the development plan are AP13 of the 2006 LP and SP15 of the 2013 CSDMP.
67. The background and rationale for AP13 has been set out in the Council's Inquiry Note¹⁶ and email¹⁷. Where the special qualities of the SLA exhibited by the site in question are readily assessed and appreciated by reference to the SLCA the policy should be given full weight. This is not a marginal site on the edge of the SLA. It is central to it and its qualities are readily appreciated by an appropriate expert.
68. SP15 of the CSDMP identifies the valleys and tributaries of the Ore and Deben as particularly significant: this site very obviously falls within the relatively small plateau between the Ore and the Deben and has been shown to play a role in views across the valley landscape of the River Ore. The site forms part of the valley setting and this is obvious when the topography of the site is considered, not only appreciable when viewed on site, but of some significance in policy terms.
69. The appellant has relied heavily on the claim that there is no sensible way of assessing what are the qualities of the SLA which AP13 seeks to protect. It may be thought obvious that the SLCA plays a role as does a reliable landscape and visual impact assessment, but to draw as sharp a distinction as the appellant

¹⁴ Mr Burrell's proof of evidence para 9.15

¹⁵ Ditto, Para 9.14

¹⁶ Doc 8

¹⁷ From Phil Watson at Suffolk County Council, Doc 11

does between characteristics and qualities is artificial. This is particularly so since it appears from the record likely that the SLCA was undertaken (at least in part) in order to provide the robust assessment required to enable local designations of this sort to be applied¹⁸. It is not surprising that no difficulty was identified in the preparation of the Landscape and Visual Impact Assessment (LVIA) by the appellant and not surprising that there are several references to quality and management as well as to characteristics within the SLCA. The appellant's landscape witness had little difficulty identifying the qualities of the area and recognised that the SLCA identifies qualities as well as characteristics.

70. The future of the designation over the appeal site is not in doubt. The CSDMP specifically confirms the continued application of AP13 over the full extent of the current designation.
71. The fact that renewable energy proposals are "intrinsically sustainable" adds nothing to the case for development: it is on account of this and the need for them that they enjoy the policy support they do. This intrinsic sustainability does not mean that the development of a greenfield site in an area valued for its landscape quality and within the setting of three listed buildings is "sustainable development". For this development to be genuinely sustainable it needs to accord with the up to date Development Plan. The NPPF provides further as follows:
- 98 – the development should be permitted if its impacts are or can be made acceptable;
 - 109 – valued landscapes are to be protected and enhanced and (113) protection should be commensurate with their status and give appropriate weight to their importance;
 - 132 – substantial harm to a grade II listed building should be exceptional and (134) less than substantial harm should be weighed against the public benefits of the proposal.
72. The Council is responsive to the national need for renewable energy and recognises the significance of the 25 MW contribution the site could make to meeting those needs. The Council recognises that the government expects solar PV to play a significant role in meeting energy needs, albeit the strategy for its deployment has not been set out. It is a technology which is well suited to provision on buildings and brownfield sites, and capable of being accommodated with limited harm even on agricultural land where the topography permits effective screening. Solar PV within large scale "farms" in the countryside is a relatively new phenomenon and by July 2013 the need for policy guidance had become plain. It is important to note that:
- The PPGRE recognises the role of LCAs in assessing the likely landscape and visual impacts of individual proposals; and
 - Paragraph 27 sets out particular factors which need to be considered and this confirms that "a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset".

¹⁸ See paragraphs 9-11 of the Council's SLA Note at Doc 8

73. The parties are agreed that some harm is caused to landscape and visual amenity in the "short" term; and to the significance of three listed buildings (one listed Grade II* and an Ancient Monument). There is no reasoned basis for balancing need against harm, since the purpose of the policy is to strike that balance and no additional or separate balancing of need and harm is relied upon by the appellant. If it were it would require the question of alternative sites to be considered.
74. In that context permission should be refused unless both the adverse landscape and visual impact and the adverse impact on the setting of the three listed buildings are considered acceptable in this particular case. The knowledge and experience, the expertise, clarity and coherence of the evidence of the Council's witnesses (and that of Anne Westover, given her considerable knowledge of the area and her independence of both main parties) should be given considerable weight. Where the experience of local people is simply inconsistent with the appellant's analysis it calls that analysis into question – a glaring example of this was the insistence of the appellant that Easton Lane should not be accorded high sensitivity to change on account of the nature of its use. The appellant appeared determined to argue that it is not used as a recreational route by those who are enjoying the landscape, rather than accessing a given destination while dodging traffic. This just does not ring true. It does not pass the common sense test.

Landscape

75. Material facts about the development:

- It is assessed as a reversible change which need not alter the landscape elements of the appeal site long term nor prevent the appeal site reverting to agricultural use at the end of the 25 year period of the permission;
- It is proposed to introduce a new hedge along the eastern and southern boundaries which would sever two parcels from the field currently farmed as a single entity. The developer's expressed intention that those remnant parcels be in active agricultural use is not corroborated in this appeal by the owner of the land, nor the farmer. We know that according to the option plan, the developer will not have any control over them. There must be some doubt about the continued agricultural use of these parcels and therefore some doubt over their condition and appearance over the 25 year period and perhaps longer;
- The new boundary does not follow either the alignment or position of any previous field boundary. It obscures rather than reveals the history of the site and its development;
- It is impossible to say whether or not the hedge would remain in the event of a resumption of the agricultural use. There would be nothing to prevent a future farmer removing it, just as hedges have been removed elsewhere within the appeal site in the relatively recent past ;
- The viewpoints from which the development will be seen (unless or until the mitigation is fully effective) are agreed as representative views, albeit it must be recognised that views are obtained over a length of footpath or road.

76. The case articulated by the appellant that the landscape is "heavily influenced" by infrastructure such that it plays a significant role in defining the character of the

area, is entirely new. It is surprising that the additional analysis and supporting documentation were not referred to in the appellant's statement of case. However it is not a good point. The appellant's landscape witness's Figure 1 with pink blobs of "urbanised development" is positively misleading: the pink blobs around the site include farmland. The pylons and the electricity substation are perhaps the sole detractors from the essentially rural and historically significant agricultural landscape.

77. The largest of the pylons appear to stride across the landscape, rather as they do in many cherished landscapes across the country. Nevertheless it remains essentially a rural, attractive, undeveloped landscape, and the appeal site is acknowledged to make a contribution to this scene. The word "denuded" is inappropriate, given that from all public viewpoints the openness of the appeal site is framed and punctuated by woodland. It is a misreading of the description of the South Norfolk and High Suffolk Claylands Landscape Character Area (LCA) to include this site within the areas described as 'denuded'. More relevant to this site is the paragraph beginning "The extensive views that are available in this area show a patterned, textured landscape of gentle undulation ..." on the second page of the same extract¹⁹.
78. The LVIA recognised sensibly that the local landscape has a medium sensitivity to change on the appeal site and that the changes proposed are of medium magnitude leading to a moderate adverse effect on landscape character. It is in predicting the effects of the mitigation proposed that the LVIA becomes unrealistic (it advises the effect becomes beneficial) and fails to recognise a) the unsympathetic character of the new boundary hedge and tree line which fails to respond to the SLCA management guidelines and fails to respect one of the key characteristics of the Ancient Estate Claylands, the organic pattern of field enclosures; and the cumulative impact of the pylons and substation – elements which detract from but do not define the landscape at present. The appeal development would anchor them and give them greater impact than the sum of their parts.
79. The appellant has been excessively sanguine about the suitability and effectiveness of the reinforcement of the northern boundary and the establishment of a new hedge along the southern and eastern boundaries. This fails to invite confidence or respect, and fails to grapple in a persuasive and practical way with the challenges of screening such a prominent, urban form of development over such a large and exposed site.

Visual impact

80. The undulating topography and the availability of well used footpaths around the site ensure that the site and development will be widely viewed. The fall in levels over the appeal site of 10m west to east, plus another 5 down to the north eastern corner confirms that it forms part of the setting to the Ore river valley and is exposed to views from the east, across the valley itself. There is some containment, but it is such a large site that it will be seen on every public right of way in the vicinity. It will not be possible to go for a walk around Hacheston without enjoying a view of the development. Even on the appellant's evidence this will be the case for some five years while the planting becomes established.

¹⁹ See Cook appendix 4

While the arrays face south, the northern views of the site will reveal the backs of the black structures, stacked one above the other. The rising ground means those nearest the viewer do not screen those behind.

81. As to the prominence or visual effect of the panels and other structures themselves, it is hard to conceive how they could blend into the background. The methodology of the LVIA is accepted by the Council and there is a high degree of agreement, but the following principal points of difference remain: -

- The sensitivity of receptors using Easton Lane to the south is in dispute. Since it is used as a recreational path by walkers it ought to be accepted that it is a receptor with high sensitivity to change.
- The new boundary is neither necessarily a long term legacy of the development nor is it an appropriate addition to the organic pattern of field boundaries which are characteristic of the area. It could perform a screening function in the long term but only after some 8-10 years, which is well into the 25 year period of development. There must also be doubts about the prospects of achieving a good hedge at 3m high and maintaining it there.
- The ability of new planting to mitigate impacts from the north is also in doubt – the more so since the land rises behind the hedge line – such that the impact will persist for the lifetime of the project.
- The views from the other side of the valley will suffer a medium magnitude of change so that the significance of the effect on those views is major/moderate.

82. Evidence from the two parish councils and others who live nearby on the popularity of rights of way in the area should be given considerable weight. These are in general terms very well used paths, not surprisingly so given their routes between villages and the attractive prevailing landscape. The impact on visual amenity will be felt by many local people. The main issues turn on questions raised by the mitigation proposed. Namely:

- Is it achievable on land controlled by the appellant?
- How quickly will it establish itself as an effective screen?
- How well will it mitigate views once established?

83. The speed and effectiveness of the proposed mitigation planting is in doubt after the appellant asserted that it would “begin to” form an effective screen after 5 years. To that needs to be added of course the period before which the planting is undertaken. The success of mitigation in this case is absolutely key. On any view it is a far more sensitive site than others recently permitted within the same District and yet the amount of information given is minimal, consisting of generalised reassurances without express consideration of the particular challenges of this site and the local area; and the confidence one can have in its deliverability is highly questionable.

84. In those circumstances the harm to the special qualities of the SLA, to the character of the landscape, to visual amenity are unacceptable.

Cultural heritage

85. It would be wrong to dismiss the harm to the significance of any of the designated heritage assets. Any identifiable harm needs justification bearing in mind the statutory duty to pay special regard to the desirability of preserving and enhancing such assets in the LBCA and the policy of the NPPF.
86. On the other hand the Council does not say that the harm to the significance of Moat Hall and Old Hall Parham would, if sitting on the scales alone against the established benefits of the proposals (as a source of renewable energy), justify refusal.
87. As with landscape and visual impact, the effect on heritage assets needs to be assessed and the policy question needs to be answered in a straightforward way: does the development safeguard the historic environment? Does it avoid unacceptable harm to the historic environment? Paying special regard to the desirability of avoiding harm to the special interest of designated heritage assets does involve giving special weight to this as a material consideration; see *East Northants v SSCLG* (2013) 2 P&CR 5²⁰. The case of *Colman v SSCLG* [2013] EWHC 1138 (Admin) refers to *East Northants* and finds Lang J's dictum at 39 satisfied on the facts of that case²¹. Thus it does not add to the principle established/clarified by *East Northants* and concerns a very different set of circumstances – there the Development Plan was materially out of date and there was no evidence of substantial harm to the heritage assets affected in that case.
88. Any harm needs to be justified by identifiable and deliverable benefits. The harm to Old Hall, Parham is found in the direct and proximate relationship of the asset to its agricultural setting. The relationship of Moat Hall to the appeal site is less proximate and the degree of change less, although as a Grade II* listed building the weight accorded the harm to its significance must be greater. The harm to Abbey Farmhouse is found in the changes to the site itself and the new boundary to the north of Easton Lane, and is judged to comprise substantial (serious) harm to the significance of the asset.
89. The appellant could have proposed planting along the northern edge of Easton Lane, and to have taken responsibility for returning the field between that boundary and any arrays to an agricultural use. The arbitrary line marked on a plan by the pylons which cross the field is unnecessary and obscures the historical record imposing an artificial and geometric boundary in place of the organic pattern characteristic of the area and capable of facilitating an appreciation of its history. However, even had the appellants approached the question of mitigation more sympathetically, the harm caused by the proposal to the significance of Abbey Farmhouse goes to the heart of the reason for the designation and is therefore "substantial"²². Substantial harm is unacceptable harm (it should be permitted only in exceptional cases) and so the development cannot meet the requirements of Development Plan policy and the NPPF.
90. How is it that the relevant experts have reached such different views about the degree of harm caused by the development? Although the appellant's heritage witness's principal expertise is an archaeologist his credentials are not challenged

²⁰ See in particular paragraphs 39 and 46.

²¹ See paragraphs 63 and 64

²² English Heritage letter at Richard Morton Appendix 10.

per se. It is notable however, that his tendency to report at length on those aspects of the significance of the heritage asset which it is agreed are not affected by the development, appear to dilute or provide a counter-balance to his recognition that harm is caused by virtue of the loss of agricultural use over a wide area within the Farmhouse's setting. As it was put it to him in cross examination, there can be no grounds for relying on the absence of harm to, for example, the fabric of the building to balance against the significance of unsympathetic changes within the setting of the building. It does not take a lawyer to advise that harm plus absence of harm equals harm.

91. The Council's CH witness has a deep intellectual appreciation of the process of considering change to listed buildings, and a long association with the area. He brings these formidable credentials to the task of objectively assessing the impact of the proposal and has informed his work with a further report by Samuel Abelman, a report which has been accepted without criticism by the appellant. He readily recognises that not all changes within the setting of a listed building cause harm to its significance. After all it is the asset which is protected and not the setting per se. However, in this case, it is a point of agreement between the experts that the open, unspoilt, agricultural landscape makes a positive contribution to the significance of the asset.
92. The only issue is the degree of harm caused when that land is populated not by crops which change in the rhythmic cycle of the seasons, but by static, black panels arranged in parallel arrays enclosed by a 2.4m high security fence of unsympathetic character. There are also the inverters with their ventilation to consider – now confirmed but as yet not illustrated – elements of the development which only reinforce the expectation that the development involves a transformation of the landscape character of the appeal site to that of an industrial or other essentially urban, built-up use of land.
93. The appellant has not given sufficient weight to the contribution the continuing productive agricultural use, its character and openness, make to the setting of Abbey Farmhouse. This is done expressly and for two reasons: first that the land has lost its internal hedges, and second that it was not in the same ownership as that of Abbey Farmhouse. Neither of these addresses the point directly. The Council recognises the loss of field boundaries, but this is at least a change to the site which reflects and facilitates the essential use and character of the farmhouse's setting – its continued agricultural use and rural character. It is recognised that the site would contribute to the historical value of Abbey Farmhouse in an additional way if it was once farmed by those living in the farmhouse, but the lack of that association does not diminish the importance of the site's use and character to the significance of the asset nearly as much as claimed. This is a simple logical flaw.
94. The appellant's mistake in placing the site within the Sandlings in evidence– and continued failure to reconsider despite the point being contradicted by the landscape witness within his own team, is highly significant. The more so when we consider the fact that he had unfortunately failed fundamentally to understand the role of enclosure and the estate farm in this area, and the significance of arable agriculture on the relatively good, clay, soils to the development of the area and the very existence of Abbey Farmhouse itself.

95. Further, the appellant appears inappropriately to have given weight to the absence of harm to, for example, the fabric of Abbey Farmhouse itself and to have balanced that lack of harm against the harm to the setting identified by the Council. Another way of looking at this same point is to note that the fact the appeal site was not owned or farmed by the farmhouse appears to cloud his judgment over the significance of the land use itself. In fact, as can readily be appreciated on a site view and by reading the landscape character appraisals, the Council's analysis is the more persuasive, as is the opinion that the unspoilt agricultural setting of the farmhouse goes to the heart of why it was designated at all.
96. The scale and prominence of the development in that setting is striking. It comes as close to the curtilage of the farmhouse as 160 metres. It fills the field of view from the curtilage of that building and will be seen in views from the public footpath which presently reveals the farmhouse in its rural setting, surrounded by open, productive agricultural land. If the addition of a large solar park within the open setting of an adjacent designated heritage asset does not represent substantial harm it would be difficult to understand what can be categorised as such. It is submitted that the Council is right to find substantial harm to the significance of Abbey Farmhouse, right to find that harm unacceptable, right to find the historic environment is not safeguarded, and right to judge that permission should be refused for that reason.

The option agreement and deliverability of mitigation

97. Hive Energy do not have control over the appeal site. Neither does, yet, the intended developer. According to the appellant's representations to this inquiry, a mistake in the application plans has caused the planting along the southern and eastern boundary to be proposed outside the appeal site boundary. No amendment of the appeal site boundary has been proposed. The views of Notcutts²³ about the mitigation planting and responsibility for it are not provided. Neither are the views of Daylighting Energy Limited (DEL)²⁴ provided.
98. Section 72 of the 1990 Act provides that 'Without prejudice to the generality of section 70(1), conditions may be imposed on the grant of planning permission under that section.. (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission; and (b) for requiring the removal of any building or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.'
99. It is well established that this does not prevent a negatively worded ("Grampian") condition in certain closely prescribed circumstances and provided it also respects the other requirements of a valid condition²⁵.

²³ Inspector's note: the landowner

²⁴ The developer

²⁵ See Circular 11/95 paras 28, 37-40

100. There is no certainty that there will not be a dispute over responsibility for the provision and maintenance of the hedge. This is not answered by reference to the text of the option agreement. The option notice does not require DEL to include the land necessary for mitigation planting – as it could have done²⁶. The appellant and associated companies also appear to have no control over the northern boundary for the reasons given by NHS and the prospects of satisfactory screening from the north are made even more remote by the points made in the informal conditions session by the landowner and NHS. It is regrettable and revealing that no one has spoken to the adjoining owner to the north about the delivery of the planting.
101. There is therefore no prospect of imposing a positively worded condition outside the application site. To conclude, for the two reasons given by the Council in this case, permission should be refused for the proposed solar farm at Hacheston.

The Case for No Hacheston Solar

The main points are:

102. The proposed development is the wrong scheme in the wrong location. The evidence demonstrates that adverse effects of this scheme comprehensively outweigh the benefit that arises from increased renewable energy generation. It has also been shown that this scheme is poorly thought through; its effects only partially assessed; and no alternatives considered. Local and national policy recognises the need for solar energy; but it is also clear that such schemes can be accommodated in England without the need for the significant adverse effects that arise from this proposal. NHS supports the Council's reasons for refusal but submits that there are further reasons justifying the dismissal of the appeal in this case.
103. The need for a transition to a low carbon future is one of 12 core planning principles in the NPPF but there is nothing to suggest that that principle should have a higher status than others. The need for new renewable energy sources thus sits alongside other core principles, such as the recognition of the intrinsic character and beauty of the countryside, and encouraging the reuse of previously developed land. Large scale solar proposals have been the subject of recent consideration in planning policy. In a speech to the solar PV industry on 25 April 2013, the Minister for Energy and Climate Change described the "model for future solar projects" as being development on disused airfields, degraded soil and former industrial estates. He described "greenfield agricultural land" as an "inappropriate place" for large-scale ground-mounted solar. He said that where solar farms are not on agricultural land "you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation". He warned of the risk of losing public support for solar through not taking into account the impacts on local communities.
104. It should be noted that this statement post-dates (considerably) the material relied upon by the appellant from the Department for Energy and Climate Change (EN-1 and EN-3, which themselves do not address large scale solar).

²⁶ see paragraph 2.1.19

105. The recent PPGRE provides as follows:

- Consideration should be given to the potential impacts on the local environment, including from cumulative impacts (paragraph 8);
- The view of local communities likely to be affected should be listened to (paragraph 8);
- The risk of negative impacts on the rural environment, particularly in undulating landscapes, is recognised (paragraph 26);
- The effective use of previously developed land is encouraged (paragraph 27, first bullet);
- Consideration should be given to the impact of security measures (here fencing, lighting and CCTV) (paragraph 27, fifth bullet);
- Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of the proposals on views important to their setting (paragraph 27, sixth bullet);
- With effective screening and appropriate land topography the area of a zone of visual influence could be zero (paragraph 28).

106. NHS's view is that this application is completely out of step with national policy. The proposal is for a large scale deployment on a greenfield site, with no serious prospect of continuing agricultural use during the life of the project, on a site where no mitigation can eliminated adverse visual impacts, in a protected landscape and in the setting of three listed buildings. The proposal flies in the face of strong local opposition. It is precisely the sort of proposal that both DCLG and DECC do not want permitted.

Landscape and visual matters

107. It is clear that this is a site where the visual impacts are wide reaching. The possibility of having no zone of visual influence from a properly located solar farm is recognised in the PPGRE, depending on topography. The proposal is in a countryside location whose "intrinsic character and beauty" is recognised in the core planning principles of the NPPF. That character and beauty will be adversely affected by the proposal. As to local policy, the recently adopted CSDMP provides continued endorsement for the SLA designation in saved policy AP13. The need for the SLA is clearly articulated in the 2006 LP at paragraphs 1.63-4 of the supporting text. It notes that certain areas have special landscape attributes which are particularly vulnerable to change. This includes the Deben and Ore valleys and their tributaries. The newly adopted CSDMP requires renewable energy projects to safeguard the landscape (SP12). Policy SP15 provides unequivocal protection for the landscape and notes the "particular significance" of the Deben and Ore valleys (among others).

108. The Inquiry has had the benefit of the SLCA. National policies recognise that LCAs can form the basis for considering which technologies at which scale may be appropriate in different types of locations. NHS emphasise what it considers to be the key drivers to the conclusion that the adverse landscape and visual impacts warrant dismissing this appeal:

- The proposal introduces an alien and industrial form of development to a rural area. The idea that this area is one which is degraded through the presence of infrastructure should be rejected. Despite the presence of some electricity pylons, the landscape reads as open countryside, predominantly in agricultural use;
- The site has a wide zone of visual influence, from the popular Easton Lane through to longer distance views such as from around Moat Hall;
- Even with mitigation, there is a significant residual impact and the site will continue to be viewed from a number of points;
- There will be a considerable time before the proposed mitigation will take effect. On the appellant's evidence, this will be getting on towards half of the lifetime of the project;
- There are real risks to the delivery of the mitigation such that it cannot be relied upon;
- The appellant's assessment does not adequately grapple with the effect of the seasons on the mitigation planting and the screening from existing vegetation, nor does it grapple with the expected effects of ash dieback which NHS explains has taken hold in the village and in the CWS to the west of the site;
- The appellant's assessment does not grapple with glint and glare from the panels;
- The appellant has consistently downplayed the impact of the proposals, including writing down the sensitivity of various receptors. For example he strongly resisted the suggestion that users of Easton Lane should be treated as having a high sensitivity, despite the clear evidence from NHS as to the recreational use of the lane by walkers and cyclists. Quite why the appellant's landscape witness felt the need to so strongly resist this first hand evidence from a resident of Easton Lane is baffling. See also the detailed analysis provided of the assessments in the LVIA by the Westover Landscapes Report;
- In assessing landscape impacts, the appellant's landscape witness has chosen to treat the absence of any detailed articulation of the features of the SLA as evidence that it has no special qualities. He was however able to agree in that its features included tranquillity, a subtle topography, the visual interrelationship between valley sides, occasional farmsteads, a patchwork of woodland and a number of historic buildings. When all these matters are considered it is quite easy to see why the landscape is described as "special";
- The appellant has largely disregarded the relationship with the heritage assets in his assessment;
- There has been no assessment of the cumulative impacts on the landscape of this and other developments, including Parham airfield, and the cumulative visual impacts. This is contrary to paragraphs 15 and 29-44 of the PPGRE;
- The intrusion of this development on a gently sloping valley side plainly adversely affects the landscape. The historic field pattern may have been partially lost, but the rural character and beauty has not been lost. This is a peaceful arable field, lying between the ribbon of development in the valley

and an ancient woodland. It is not “denuded” or degraded, but an important component in the overall landscape.

109. NHS submit that the result of all of this is a partial assessment through the LVIA and the appellant’s later analysis, and a reality of very significant continuing adverse impacts, in terms of both the landscape and visual impacts, arising from the development. The site contributes to the special qualities of the SLA in its current state, but the introduction of this vast industrial development will detract from those qualities and from the intrinsic qualities of this landscape.
110. The appellant’s optimistic assessment of the landscape and visual impacts is based upon the delivery of mitigation planting. Such planting cannot be relied upon. Section 72 of the TCPA 1990 allows conditions to be imposed in respect of land which is within the application boundary, and other land within the applicant’s control. The applicant (Hive) has no control over the site at all. If there is any control from the option, it is control for Daylighting/Moser Baer, not Hive. The s106 agreement, so far as relied upon, is not capable of affecting land which does not belong to Notcutts. That includes the hedgerow to the north of the site, which the appellant assumes will be thickened up. Accordingly there is no control over whether Mr Kellaway, the owner, will remove that hedge. It must be assumed that this line of vegetation will not be enhanced, and may be removed. So far as conditions are to be imposed in respect of planting and habitat management, they can only be relied upon so far as they relate to the site itself.
111. The mitigation planting (and habitat management) cannot therefore be relied upon as being capable of being delivered. The long term management of the site is thus not secured. This problem is not avoided by having a condition which prevents the generation of electricity. The development would have to be removed.

Heritage

112. The starting point is the statutory test in the LBCA. It should be a primary consideration which is accorded statutory weight. The PPGRE emphasises this in respect of large scale solar and recognises that solar farms within the setting of listed buildings may cause substantial harm. Substantial harm to a designated heritage asset should be exceptional or wholly exceptional in the case of a Grade II* listed building or Scheduled Ancient Monument (here, Moat Hall). Less than substantial harm should be weighed against the public benefits of the proposal, being mindful of the statutory requirement for special regard.
113. It appears to be accepted that the site contributes to the setting of each of the heritage assets affected. The dispute is about the extent of that contribution, and the amount of harm that the proposal causes to the setting of the buildings.
114. There is clear, and NHS says substantial, harm to the setting of Abbey Farm, which is immediately adjacent to the appeal site. The visual relationship between the curtilage buildings at Abbey Farm Barn and the appeal site could not be stronger. Abbey Farm is not simply appreciated from the east, but is seen in the wider rural context. It is notable that the appellant’s original desk based assessment concluded that the appeal site contributed relatively highly to the overall setting; a conclusion later watered down. NHS submits that this is

substantial harm, contrary to the NPPF and the PPGRE, justifying refusal on its own.

115. Old Hall Parham has undoubtedly had its setting compromised by the substation, but that cannot justify further harm to its setting. Indeed the appeal proposals risk severing the link between the asset and the farmland to the south, a risk identified in the English Heritage guidance on setting²⁷.
116. Moat Hall is a particularly special case. Both the appellant and the Council play down its significance. It has a notable history, being the home of the woman who would have been Henry VIII's seventh wife; and the home of ancestors of the second, third and fourth in line to the throne today. It is a stunning Grade II* building and scheduled monument, in a valley side position with views towards the appeal site. The appellant during the Inquiry accepted that the views over the valley towards the appeal site contributed to its setting, as they obviously do. The appeal proposal will lie in that view, in what is otherwise a rural landscape typical of the SLA and LCA.
117. In each case, a walker on the public footpaths around the heritage assets would inevitably see the appeal proposal in the context of these heritage assets. The context of each would be industrialised.
118. There is also a number of undesignated heritage assets. Blomvyle Hall has a strong historic relationship with the appeal site. Hall Farm, the home farm of the Marlesford estate, also has views over the appeal site. The effect on these assets also needs to be considered in assessing the overall effects of the proposal on the historic environment.
119. It is the assessment of those overall effects on the historic environment that is missing from the appellant's case. There is no assessment of the proposal against the group of buildings; instead a "salami slicing", taking each asset alone. Put another way, there is no understanding of the cumulative effects of the development on heritage assets. Those assets form part of the historic landscape of farmsteads, recognised and explained in the SLCA. Moat Hall is expressly identified as being of particular interest. The appellant's heritage witness did not have regard to that document, instead (wrongly) identifying Abbey Farm as lying in the "Sandlings" area of Suffolk, associated with sheep rearing and sandy soils. We know that the appeal site has a clay soil, and there are few sheep. This is not an inconsequential error – it is a failure to appreciate the historic landscape as a whole. His analysis might be seen as an archaeological one – fixing in the fabric of the asset, but tending to downplay the way it is appreciated. When one views this valley's historic environment as a whole, it is immediately apparent that the collection of significant heritage assets is of considerable significance. The appeal proposals would damage each individually, and as a whole.
120. There is no need for ground mounted solar proposals to affect listed buildings: see Parham airfield, as one example. To permit such a large scheme within the setting of three designated heritage assets would be to fail to have special regard to those assets, and run contrary to national policy.

²⁷ English Heritage: *The Setting of Heritage Assets*

The rural economy

121. The proposal results in the loss of 17.4 Ha of best and most versatile agricultural land from agricultural production for at least 25 years. Paragraph 112 of the NPPF resists such loss. Moreover, the PPGRE and Minister for Energy and Climate Change both direct large scale solar to previously developed land or the lowest value agricultural land. There is no evidence that the land will be used for grazing sheep during the operational life of the development. Mowing grass is not agriculture, as the appellant appeared to accept. There is a risk of damage to field drains from the installation of the panels which may result in the degradation of the land through the life of the development.
122. The appellant has chosen not to provide the actual figures for agricultural production on the site. Evidence from NHS about the yields on adjoining fields to the north suggests production well in excess of national averages. There is a real risk of an adverse effect on the shoot. One drive will be lost completely. The appellant accepts that there is uncertainty as to other effects, because he cannot demonstrate that there is no issue with shot falling on the panels; nor has it been explained if and how birds will be able to be retrieved from within the development site. The appellant has chosen not to assess the impact on tourism. Reliance is placed on a series of studies about wind turbines, but there is no evidence that anyone considers ground mounted PV to be attractive to look at. There appears to be no appreciation by the appellant of the risk to this growing industry.
123. The scheme as a whole provides nothing to the rural economy. It is not a farm diversification scheme – the landowner is runs a nursery retail operation, and farms on a contract basis. The appellant has chosen to offer nothing to the local community from the significant amount of money that will be generated from the land.

Noise

124. There is no better demonstration of the lack of care taken in making this application than the complete absence of any background noise survey. There can be no doubt that this is a tranquil rural area. The effect of increases in noise level from the operation of the inverters associated with the development is therefore a matter of real concern for local residents. The appellant originally sought simply to take comfort from the lack of objection from the Council's Environmental Health Officer (EHO). However, the EHO's view was based on an understanding – presumably arising from the appellant's assurances – that the "inverters would be housed in insulated housing and do not have fans associated with them. Therefore I note from a conversation with the agent that there is no noise audible from the inverters outside the housing". This statement has been shown to be mistaken. There is no suggestion that the housing is insulated. Fans are required. We are told that a noise level of 50 dB(A) 10m from the inverter buildings is assumed even by the appellant's expert.
125. The appellant now relies upon a report from LFAcoustics, provided a week before the Inquiry (despite the appellant being on notice of NHS's objection on noise grounds since at the latest July 2013). It is a deeply flawed report in that it has no regard to background noise levels, which is the crucial point when industrial development is proposed in a tranquil rural location. It gives no consideration to daytime noise. It fails to clearly apply either of the two British

Standards referred to – probably because to sensibly apply either, one would have to consider the background noise. It does not explain what make or model of inverter is assumed. It assumes a single inverter in each building – something which NHS has explained is completely inconsistent with the manufacturer’s view as to how many inverters would actually be required. It treats the design of the inverter buildings as being uncertain, despite the fact that full planning permission is sought for a specific building design. It fails anywhere to explain the nature of the noise generated – is it a constant low frequency hum, occasional mechanical noise, or a high pitched noise? We simply are not told, although members of the public have commented on the annoyance of the noise.

126. Even taking the LFAcoustics report at face value, the concern about noise impacts remains. Under “Assessment” the report concludes that the noise levels would be below 30dB(A) at surrounding properties, but that a tonal penalty of 5 dB(A) should be applied. It concludes that this is treated as being a “very low” noise for the purpose of BS 4142 and seemingly uses this as a justification for disapplying that Standard. It then concludes that applying BS 8233, the noise levels would be acceptable within the buildings. However, that Standard is used for new residential development introduced to an existing noise source – not the other way round. Here the existing background noise is clearly the important factor. Moreover as noted above there is no consideration of the outdoor and daytime noise nuisance caused by the development.
127. The appellant provided a further letter from LFAcoustics on the last day of the Inquiry²⁸. This supported the evidence that there will, in addition to the inverter houses, be string inverters, each creating additional noise sources. It is understood that there will be one every ten panels, spread throughout the site which have not been the subject of any assessment. NHS has not had time to consider this in any detail or to investigate the assertions as to the noise generated. There is still no description of the quality or characteristics of the noise. There is still no background noise assessment. There is no assessment of the cumulative effects with the noise from the existing substation.
128. The upshot of all of this is that the appellant has simply failed adequately to address a live issue at the Inquiry. This is not a type of development with which one is naturally familiar such that an instinctive judgment as to whether noise will or will not be an issue can be made (a point supported by the resident at 1 Blomvyle Hall Cottages, who noted that the noise effect was unknown). The community does not know what a solar farm sounds like. The appellant has been asked by a party to the Inquiry to address the point and has essentially failed to do so. This alone justifies dismissing the appeal.

Ecology

129. The ecological evidence from the appellant’s ecology witness is based on the Phase 1 habitat survey and understanding of the potential for the site to provide the relevant habitats. She acknowledged in re-examination that “ad hoc observations” had a value in forming the basis for future assessment. In this case there is evidence, in Part 9 of Mrs Darby’s proof for NHS, of the use of the site by among others bats, barn owls and skylarks. Yet despite this evidence there has been no species survey.

²⁸ Doc 16

130. The potential for impacts on bats is recognised in NE's advice in TIN101. It is noted at page 3 that there may be an effect "where the land may be used... to navigate to foraging sites". Thus NE recognises that adverse effects may arise from the use of land which is not foraging land, but connects different foraging habitats. Mrs Sambrook for the appellant also recognised in answer to the Inspector's questions that certain bat species (such as noctule) do fly in the open. Page 3 also notes that where a solar park is proposed close to a sensitive site (such as the CWS) there should be a detailed assessment of the ecological impacts to demonstrate that it would not compromise the objectives of the designation. There is no such detailed assessment here.
131. Mrs Sambrook's evidence and assessment relies extensively on the delivery of a habitats/ecological management plan. As yet, no clear articulation of what would be in that management plan has been provided. There remains considerable uncertainty as to what it will deliver. As to what it could deliver, see the observations above in respect of the enforceability of conditions outside the site boundary.

Community involvement

132. National policy requires the views of local people to be taken into account. There is strong – overwhelming – local opposition to this proposal, which is opposed by the Parish Councils and received 58 individual objections, as well as collective objections through NHS. Contrast Parham, where the Parish Council was in favour of the proposal and 6 people objected, 4 writing in support. Local opposition is not inevitable; people accept the need for renewable energy generation; but it needs to be the right scheme in the right place. In light of national policy, considerable weight needs to be given to the strong local feeling against this development.

Overall effects

133. What is really lacking from the appellant's case is any appreciation of the overall adverse effects of this scheme, whether through Environmental Impact Assessment or otherwise. It attempts to isolate individual issues and play down their significance. It fails to recognise the cumulative and combined effects. For example the adverse visual impacts that are tied in to the harm to the setting of the listed buildings; both relate to the adverse impact on the local economy. The simple submission is that all these factors taken together demonstrate significant planning harm.

Alternatives

134. Alternative sites need to be considered where (a) there is a policy requirement to do so or (b) the case is advanced on the footing that the need for the development outweighs the harm caused by it. In this case policy requires consideration of alternatives. The NPPF at paragraph 112 states that where significant development of agricultural land is "demonstrated to be necessary", priority should be given to areas of poorer quality in land in preference to that of higher quality. This is plainly significant development of agricultural land; it cannot possibly be "demonstrated to be necessary" without any consideration of whether alternative sites are available. Further, the policy of seeking to use poorer quality land "in preference" to that of higher quality can only be met if it can be shown that there are no alternative sites of poorer quality. The PPGRE

also sets out a clear hierarchy for sites for large scale ground mounted solar: favouring previously developed land and recognising that some sites will have no visual effects at all.

135. Likewise, the statutory requirement for special regard to the setting of listed buildings, the NPPF's requirement that substantial harm to heritage assets should be "exceptional", and the PPGRE's requirement that "great care" should be taken to conserve the significance of heritage assets should together require the appellant to demonstrate that this harm is justified. It can only sensibly do so by showing that it is necessary to build this proposal in this location. Even if there was no policy requirement to consider alternatives, the Secretary of State is invited to find that alternatives should have been considered and ruled out by the appellant. In the Langley Park case²⁹, the Court of Appeal considered alternatives and recognised that a planning judgment has to be made as to whether and to what extent the applicant should demonstrate the absence of alternatives.
136. The starting point must be the extent of the harm in planning terms that would be caused by the proposal. If little or no harm would be caused by granting permission there would be no need to consider whether the harm (or the lack of it) might be avoided. The less the harm the more likely it would be (all other things being equal) that the local planning authority would need to be thoroughly persuaded of the merits of avoiding or reducing it by adopting an alternative scheme. At the other end of the spectrum, if a local planning authority considered that a proposed development would do really serious harm it would be entitled to refuse planning permission if it had not been persuaded by the applicant that there was no possibility, whether by adopting an alternative scheme, or otherwise, of avoiding or reducing that harm.
137. Where any particular application falls within this spectrum; whether there is a need to consider the possibility of avoiding or reducing the planning harm that would be caused by a particular proposal; and if so, how far evidence in support of that possibility, or the lack of it, should have been worked up in detail by the objectors or the applicant for permission; are all matters of planning judgment.
138. The references to the judgment of the local planning authority should of course now be treated as references to the Secretary of State's judgment. The appellant has indicated that it intends to rely on *Derbyshire Dales DC v SSCLG* [2009] EWHC 1729 (Admin). The Secretary of State will note that this was a High Court case, pre-dating the Court of Appeal's judgment in Langley Park. The latter should therefore be taken to be an accurate statement of the law. In any event, *Derbyshire Dales* recognises (at [36]) that where a proposal affects listed buildings there is a planning judgment to be made as to whether alternatives should be considered.
139. NHS submits that this is a case where the appellant should have demonstrated that it was necessary to choose this site in favour of previously developed land, or land of lower agricultural value. It has failed to do so and therefore the Secretary of State cannot accept that the need for this development is capable of outweighing the harm, because that need could be met elsewhere with lesser adverse environmental effects. Similarly, it should have shown that there are no

²⁹ Doc 19

sites available which would meet the need without harming the SLA or the setting of listed buildings. Of particular importance here is the fact that two large solar farms have been permitted recently by this authority, and another is subject to an appeal. That demonstrates that (a) this authority, and this community, is making a significant contribution to ground mounted solar already and (b) there are other sites, including ones which plainly have lesser adverse environmental effects.

140. When the Government has placed such emphasis on ensuring the large scale solar proposals are sited in the right location, with the support and engagement of local communities, the Secretary of State is invited to form the view that because the appellant has chosen to promote a greenfield site in a protected landscape, with residual adverse visual effects, harm to the setting of listed buildings, a loss of best and most versatile land, it should have shown that it was necessary to do so because no other sites were suitable. For all the reasons set out above, the Secretary of State is respectfully submitted to dismiss the appeal.

Interested parties

141. **Malcolm Robinson** represents Hacheston Parish Council (HPC). He frequently uses the lanes and footpaths around Moat Hall Farm, Old Hall Parham and Abbey Farmhouse for dog walking, running and cycling and should this appeal be allowed the proposed development will blight these activities for the majority of the rest of his life. HPC is unanimously and wholeheartedly against this scheme. The Secretary of State will be aware of the large amount of public opposition to these proposals through the letters written by individuals to the Council, the Planning Inspectorate, MPs and Ministers and through the separate votes taken by Hacheston, Parham and Easton Parish Councils to oppose the proposals. Most significantly, in these times of economic hardship, the community has raised a not inconsiderable fund from voluntary donations to ensure it is properly and effectively represented in these proceedings.

142. The appellant has made limited attempts to meaningfully engage the local community beyond its statutory obligations. The community's constructive criticisms of the development were not addressed, no meaningful two-way discussion has taken place, discussions with the LPA have been kept from the community, last minute amendments to the application with regard to noise and visual impacts were only advised at Committee. The development has not been shaped by the local community and there is no known benefit to the community.

143. The residents of Hacheston understand that they have a part to play in delivering the country's renewable energy target through appropriate and well thought through developments. As part of Suffolk Coastal District the area is 13.5 miles from Sizewell B nuclear power station and in likelihood will see Sizewell C developed; a 17.5MW solar park is complete 1.7 miles away at Parham and a number of residents have installed solar PV and thermal systems on their own houses.

144. The appellant has put before the Inquiry numerous documents, guidance and policies with the intention of persuading the Secretary of State that the presumption in favour of their proposal is irrefutable. The NPPF has at its core 12 core principles that are of assumed equal weight and it and the PPGRE cannot be considered as a mandate for renewable energy. In a variety of media, Government Ministers have of late made clear their policy on the role they see

solar power playing in meeting the countries renewable energy targets. Most noticeably, Greg Barker, Minister of State for Energy, on twitter on 26 June 2016 and in the Westminster debate on solar arrays on 11 July 2013, stated that solar has a major role to play but that this could be achieved through the use of brownfield sites and commercial and domestic rooftops and that deployment will not — and must not — come at any cost, nor in any place, and certainly not if it rides roughshod over the opinions of local communities.

145. At the start of the Inquiry there was confusion as to which drawings described the proposal under consideration here and there appears to be a number of proposals for the type and number of inverters and inverter housings that the scheme requires. This matter is of great concern to residents of Hacheston as it will dictate what noise impact the development will have and which to date has not been adequately addressed. At the northern end of the village there is already a low frequency noise impact caused by the sub-station. Any further loading of the substation may exacerbate this and any noise generated by the inverters and cooling fans may disturb this tranquil environment. There has been no adequate background noise assessment, no assessment of the impact of the equipment that will actually be installed and no attenuation performance specification developed for the full spectrum of noise generated that will ensure no adverse impact.
146. During this whole process, residents of Hacheston have frequently raised concerns that the development will lead to increased surface water run-off and increased flooding risk in Hacheston. These concerns have largely been ignored with claims that the grassland created will improve the soil condition and compensate for any damage to the land under drainage and compaction of soil caused by construction of the solar park. It is not known what sort of grassland will develop under the solar panels but this area, with its currently regularly maintained field drainage, has caused flooding into the village in the recent past. It is another area that has not been adequately considered and mitigated.
147. There has been much debate at this Inquiry about the adequacy and effectiveness about the screening proposals put forward for this development. This argument completely misses the point with regard to one aspect of the enjoyment that residents and visitors to the footpaths and lanes derive, that is the openness of the views. Siting something that will have the appearance of a high security prison for a large part of its lifetime will destroy these open views and the enjoyment derived from them.
148. Turning to the evidence given yesterday regarding the views from Old Hall Parham and Moat Hall. Having recently run and walked these areas, the photomontages do not do justice to the stunning panoramas there. Approaching Old Hall from the west the building and development area are within the field of view for some time. Similarly approaching Moat Hall from the south and passing to the north west sets the building against the development area.
149. This development of 25 years duration has been presented as something of a relatively short defined lifetime, although for many of the residents of Hacheston this represents a period which will occupy the majority of the rest of their lives. However landowners are being encouraged by organisations such as the Portsmouth Sustainable Energy & Climate Change Centre to think of the first 25 years as only the starting point. They advise that equipment may operate for up

to 20 years beyond the initial 25 years and that planning consent will be easily obtained because change of use will be established. Thus this development if approved could mark the start of the industrialisation of this rural landscape and may open the door for other such developments along the length of the valley.

150. The appellant is a member of the Solar Trade Association which recently announced to great public fanfare its 10 commitments regarding the development of solar parks. Amongst the commitments are; focus on non-agricultural or lower quality agricultural land, sensitivity to nationally and locally protected landscapes, land management and ecology plans lasting the lifetime of the development, engaging the community (including seeking the support of the local community and listening to their views and suggestions) and sourcing and employing locally. It is a shame that the appellant appears to be paying lip service to these commitments.
151. The residents of Hacheston have no confidence in the developer, are uncertain about who the long term owner/operator of the site will be and have witnessed unsatisfactory implementation of the solar park approved at Parham. Should the Secretary of State be minded to approve this appeal then the residents of Hacheston request that he provides the Council and the community with the means to adequately control the development through a set of sufficiently robust conditions that provide real sanctions that will cause the developer to act in accordance with the approval and remedy any issue promptly and effectively and will ensure they deliver on the promises made in their proposal.
152. Until 30th August 2013 **Andrew Houseley** was Chairman of Parham Parish Council and a Member of the District Council. He was involved in Parham PC's response to Hive Energy's planning application, chaired the open meeting and subsequent Council meeting on 9 October 2012. He then spoke as the Council's representative at the Development Control Committee on 23 January 2013. He speaks as an interested party, not as the Parish Council's representative.
153. Policy AP13 speaks of no development taking place that will be 'to the material detriment of, or materially detract from, the special landscape quality.' The developer maintains that the impact will be minimal, however it is the landscape quality and in particular the setting of the site within the landscape which makes this proposal on this site unacceptable. The visual impact would be most marked not only at close quarters such as from Abbey Farm, but also from a distance of some 1.5 miles from the other side of the valley. This is because of the higher sided eastern valley slope which looks down on the lower sided western valley slope, and because of the open, undeveloped aspect, with most recent development "hidden" on the valley floor below along The Street, Hacheston and Main Road, Parham, which in any case is mostly infill alongside much older buildings.
154. It may be noted from the minutes of the Development Control Meeting, that it is a material consideration that no apparent attempt has been made to source alternative sites outside the SLA, let alone coming to the conclusion that no such sites are available. It would be quite something if national planning policy rendered local planning policy irrelevant.
155. SP12 supports proposals for renewable energy installations where they are proposed in appropriate locations where they will not have significant adverse effects on the amenity of local people, historic features or on the environment.

The wider economic, social and environmental benefits of the proposal should be considered against any significant impacts on the surrounding area.

156. Local amenity will be adversely affected, with regard to properties in close proximity to the site – Easton Lane and Old Hall - and from greater distances across the Ore valley. As far as properties on The Street in Hacheston are concerned, as well as the wider local area, the loss of amenity is more likely to arise during the construction phase, and more rigorous conditioning is required than is currently being proposed by the Planning Authority.
157. Mr Houseley also has comments on the suggested conditions³⁰.
158. **Philip Thomas** is a local resident of Abbey Farm. He points out that the size of the development would affect the whole village. He is also concerned about electro-magnetic radiation.

Written representations

159. A number of written representations are submitted. The points made generally fall in line with those made by others at the Inquiry. The following points reflect concerns raised that are not already summarised above or are of particular interest.
160. **John Kellaway** of Great Lodge Farm is the neighbouring landowner to the north, sharing a boundary of about 1000m. He says the land is well worth farming and there are many other places unsuitable for farming where solar panels would be acceptable such as motorway embankments, roofs, the grounds of public buildings and other 'brownfield' sites. Taking 200 acres out of production is losing the potential to grow, say 750 tons of wheat and the consequential loss to the economy of the business associated with the inputs and the produce as well as local amenity. Mr Kellaway also spoke at the Inquiry in response to the appellant's proposal to upgrade the vegetation on the common boundary, stating that he had not been approached and would not agree. Mr Kellaway also draws attention to various professionals and professional bodies that have rejected solar power as a serious contender as a worthwhile renewable energy source³¹.
161. **Dr Nicola Stacey** of Shuldham Barn has recently completed conversion of a barn at Hall Farm, carefully retaining its historic character, which has living accommodation at 1st floor level with a view of the development site. The proposal would introduce a severely detrimental and intrusive into the landscape which would contravene a range of rural planning policies³².
162. Garnetts Gardens is an established retail nursery and farm shop in Hacheston run by **Jennifer and David Garnett**. They are concerned that no noise survey has been carried out and worry that the existing low frequency hum emitted from Wickham Market sub-station, which necessitated bedroom triple glazing paid for by E.ON, might be made worse by the proposed equipment especially the invertors.

³⁰ Doc 7

³¹ List attached to letter dated 14 June 2013 in letter to PINS

³² Photograph included in letter to PINS

163. **Graham Hall** on behalf of Hacheston Parish Council objects to this industrial scale development which would be one of the largest in Britain. He says the former owners of the field live locally and that the mixture of moderate and good quality agricultural land would produce 660 tons of wheat. Drainage is a great concern, because the piles supporting the development would destroy the field drainage system. Runoff from the clay would affect houses.
164. **The Suffolk Preservation Society** considers the appellant's approach that the land would not be permanently lost to agriculture as being fundamentally flawed³³. **Marlesford Parish Council** point out that the site is not flat but sloping and would consequently be highly visible to the detriment of neighbouring villages. **Mrs Maree Marshall** of Blomvyle Hall Cottages is concerned about the noise that will be emitted from the inverter that is planned at the bottom of the wood that her garden backs on to; and the effect on the view from two of her bedroom windows due to glare and visual impact.

Planning conditions

165. The wording of the suggested conditions is generally that agreed at the Inquiry and is covered here without prejudice to my consideration of the issues. I have considered the suggested conditions in the light of Circular 11/95 *The Use of Conditions in Planning Permissions* and they have been adapted in accordance with the recommendations therein where appropriate, to ensure the wording is precise, necessary, relevant and enforceable.
166. The following are conditions that attracted controversy and drew comments at the Inquiry, or because they require explanation or important rewording. Should the Secretary of State decide to grant planning permission, they should be imposed for the reasons stated.
167. As discussed at the Inquiry, **condition 5** (cessation of electricity production) is reworded to accord with the wording of a similar condition imposed by the Secretary of State at Culworth Grounds ref S/2011/0314/MAF³⁴. The period of non-production before a scheme of restoration is required is reduced to 6 months. This is long enough for a panel to be repaired or replaced, bearing in mind the need for renewable energy and the overall period of planning permission.
168. An Ecological Management and Mitigation Scheme is required by **condition 7** to cover the enhancement of land to ensure that wildlife and biodiversity interests are supported and encouraged.
169. The future maintenance of screening hedgerows and planting outside the application site on land outside the control of the appellant are the subject of a separate undertaking and agreements discussed below. **Condition 8** requires the implementation of a Landscape Management Plan including new planting to provide screening in accordance with Drawing No. H.0311 03-E. Planting needs to take place before any panels or supports are installed in order to reduce the time within which it becomes effective in forming a screen. The approved scheme could not be implemented and maintained without the agreement of the adjoining landowners. Consideration has been given to the possibility that a

³³ See Doc 9

³⁴ Doc 14

'Grampian' style condition could be used similar to that used at Culworth Grounds (Doc 14) (condition 11 of that decision) but whilst provision of planting may be assured, its future maintenance is not; the separate undertaking was provided for this purpose.

170. Details of inverters and their housings are required by **condition 9**. In view of the changes made by the appellant in the specification in advance of the Inquiry, the installation of in-line inverters under the panels and the likelihood that inverters will be working hardest, and cooling fans operating, on quiet summer days, **condition 10** is necessary to restrict the overall noise levels in this quiet rural location. The wording is adapted from the model condition in Circular 11/95 and is similar to that in Annex 4 to the now withdrawn Planning Policy Guidance Note 24 *Planning and Noise*. The level of 32 dB(A) is chosen to provide a reasonable degree of protection for neighbouring occupiers and takes into account the comments made by the appellant's acoustic consultant on the likely level of immissions³⁵.
171. A Construction Method Statement is necessary to ensure that the works are carried out without undue detriment to nearby occupiers and in the interests of highway safety and wildlife (**condition 13**).
172. A Field Drainage Management Plan is necessary in view of the clay soil, its propensity for flooding and the existence of a clay pipe field drain system which is susceptible to damage from the pile supports proposed (**condition 16**).
173. A condition requiring a UK based contact for the developer is required in the interests of communication during construction but also to enable local residents to contact the company in the event of a noise issue (**condition 17**).

The unilateral obligation

174. The necessary mitigation planting would have to take place outside the site boundary as shown on the indicative application plan ref H.0311_03-E. A 'Grampian' style condition that would prevent any development until a detailed scheme of mitigation by way of planting outside the site had been approved and implemented, would have effect; but the future maintenance and retention of the planting also needs to be assured.
175. A condition relating to land outside of the application site is permissible where the appellant has sufficient control over the land. For an appellant to have control over land for the purposes of section 72 of the Act they do not have to have a legal or equitable interest, only such control over the land as to enable the developer to comply with the condition. Whether control is established depends on the facts of the case.
176. A Unilateral Undertaking (UU), an option to lease agreement and a lease agreement have been provided with the object of assuring that the mitigation planting would be retained and maintained. The applicant and appellant company is a promoter; the landowner is Notcutts Limited and the developer is Daylighting Energy Limited (parent Moser Baer Clean Energy Europe Ltd). These documents make provision for planting to take place outside the application site. The UU is intended to have the effect of ensuring that maintenance takes place

³⁵ Doc 16

for the life of the development. The Council may have to enforce the terms of the undertaking. In this case it is not clear that the appellant has sufficient control, for the reasons set out below.

177. Section 106 (9) requires that: b) any undertaking identifies the land in which the person entering into the obligation is interested, and c) identifies the person entering into the obligation and states what his interest in the land is. In the UU the site is identified for 'identification purposes only' on Plan 1, which is of poor quality. 'Plan 1' may include the land required for landscaping but it is not completely clear. The developer's interest is described as 'the landowner has granted an option to the Developer to take lease of the site'. This is not a very clear description.
178. The planting and mitigation which the UU seeks to ensure is also unclear. The 'indicative' list of mitigation measures on Plan 2 is not within the body of the undertaking, only on the plan, and would not be enforceable.
179. Clauses 15.1-15.3 seek to effectively remove the landowner's liability to maintain the landscaping by the developer undertaking to perform the covenants on behalf of the landowner. These are not valid or enforceable clauses. If the developer does not comply with these the landowner cannot enforce the UU against them. Provisions of this kind would need to be the subject of a separate agreement to be valid and enforceable. Even if they were considered to be enforceable, it would create serious difficulties for the LPA enforcing against the landowner if the developer failed to carry out the landscaping works.
180. The option agreement and lease seem equally unclear, particularly in relation to the full extent of the land to which the option relates.
181. There is an argument that the UU and the option agreement enable the appellant to ensure that the developer could comply with a landscape maintenance condition, but this only relates to the developer who has entered into the agreements and would not bind any other developer. This creates uncertainty. The fact that there is no power for the applicant to ensure that the developer, whoever it might be, complies with the condition also causes concern and it cannot be concluded that the appellant has sufficient control over the land and that a condition would be reasonably enforceable for these reasons, even if the UU and the option agreement were valid.
182. At the Inquiry, the appellants submitted a plan ref H.0311_32-A showing another possible arrangement of planting inside the southern boundary relative to the existing electricity pylons, the site boundary and the panels. This indicates planting in a different location to that on the application plan, directly under the electricity lines. However the electricity cables will need to be maintained by the network contractor and planting directly underneath would be subject to restrictions. It is much less certain that native tree planting could be incorporated as the application plan suggests. I have no firm assurances that the arrangement would actually be practical. It is unclear how the planting will be maintained where it abuts the fence. In any event, as outlined above, mitigation planting is required in other locations outside the application site boundary.
183. The undertakings, agreements and submissions intended to ensure that proposed mitigation planting actually occurs and is retained as an effective screen appear hurried and are insufficiently clear.

Inspector's conclusions

In this section, numbers in brackets [] refer to the main paragraphs in this report of relevance to my conclusions.

184. Following from these reasons for refusal, the main considerations upon which the decision on this application should be based are as follows:

- The visual impact of the proposed development and its effect on the landscape character of the surrounding area;
- The effect on the settings of heritage assets; and
- Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused.

Landscape character and visual impact

185. The SLA encompasses 3 river valleys and undulating land in the centre of the district. SLAs were originally designated in 1994 after wide consultation³⁶ because they were considered to have a distinctive visual and ecological character. The area as a whole is broadly attractive, but there is now no detailed record of the assessment that took place, or how criteria were established to define the quality of the SLA or its extent. The Council acknowledged in 2007 that policy AP13 did not strictly accord with national guidance at the time (in Planning Policy Statement 7 of 2004) which required landscape character assessments and criteria based policies to form the basis of protection for locally highly valued landscapes. The NPPF indicates that local authorities should develop criteria based policies against which proposals affecting landscape should be judged. Notwithstanding that, the valleys and tributaries remain protected by the very recent CSDMP policy SP15 in very similar wording. [54,55,66-70,107]

186. The County Council published the Suffolk Landscape Character Assessment in 2008 which was updated in 2011. The site lies in landscape character type (LCT) 1 *Ancient Estate Claylands* which comprises residual 'fingers' of plateau that dominate the higher ground between the river valleys. The relevant key characteristics are defined as: an organic pattern of field enclosures; parklands; WW2 airfields; timber framed buildings; ancient semi-natural woodland. Views can be open and long, such as from Easton Lane on the south side of the site, though this is largely the result of late 20th century hedgerow removal. The LCT assessment and the appellants' submissions³⁷ refer to considerable intrusion of suburbanisation by means of horse paddocks, barn conversions, ranch style fencing and industrial agricultural buildings, but this is not a feature of any area visible from the appeal site which retains a quiet tranquillity except for the Wickham Market grid substation, a large and intrusive industrial compound with associated pylons and cables on the northern edge of the site. Little weight attaches to the appellant's built infrastructure plan³⁸ which bears little relationship to the way the area is actually experienced. The development of solar power is not envisaged in the LCT development management advice, but in

³⁶ See Doc 8

³⁷ Appendix 6 to Andrew Cook's evidence

³⁸ at Mr Cook's appendix 6

the context of wind power, the potential for mitigation and compensation legacy planting is mentioned. [76]

187. Adjoining LCT 1 is the more complex LCT 14 *Rolling Estate Claylands* which slopes down towards the River Ore. LCT 14 generally includes the valley sides, the land close to the rivers themselves being included in the narrow LCT 26 *Valley Meadowlands*. Key characteristics of LCT 14, linear bands in the valleys, include the organic pattern of the fields, occasional areas of more rational planned fields and substantial villages, such as Hacheston; and landscape parks. A relevant landscape park is that of Glevering House near Wickham Market; Abbey Farm (listed at Grade II) on Easton Lane formed part of the Glevering House estate. The early Tudor Moat Hall, Parham (listed Grade II*) is mentioned as an important site. A key force for change is identified as change of land use, especially for horse paddocks.
188. These LCTs combine to form a visually attractive landscape. The intimate pastoral fields on the valley floors merge imperceptibly with the intricate valley sides before blending with the higher arable fields and woodlands. Apart from selective hedge removal in limited areas, no significant changes have occurred to the local landscape since the 1990s. Despite the differences in the boundaries of LCTs and the SLA drawn to my attention, I do not find that the weight to be attached to saved policy AP13 should be significantly lessened by its obscure origins or the passing of time.[46,54,55,66,67,69,107]
189. The appeal site itself consists of a 51.29 hectare (ha) field on the edge of the plateau. A substantial plantation of woodland adjoins the western edge which also defines the horizon in views from the east across the Ore valley. The other boundaries are defined by hedgerows and/or other areas of woodland except for the southern boundary which follows a straight line of timber pylons. The site is generally level but falls away gently on its eastern side and towards a ditch on the northern boundary, the difference in levels across the site amounting to around 10-15 metres (m). In longer views from across the valley, the size of the field is not obvious. It is currently in intensive arable use and is similar, though somewhat larger, than nearby fields to the north and south.
190. There is agreement that the landscape is of medium sensitivity. The appellant undertook a Landscape and Visual Impact Assessment (LVIA) which concluded that the development would bring about a high magnitude of change to the site itself, giving rise to a medium magnitude of change to the receiving landscape with a short term moderate effect on local landscape character, due to the increasing effect of mitigation in the form of new hedging. Upon establishment of the mitigation, it is suggested that the residual effect would be beneficial.
191. Without mitigation planting, the scheme would be so large in area as to redefine this part of the plateau and part of the eastern valley slope as a solar farm landscape rather than agricultural; and the magnitude of change would be high, and not just on the site itself. The scheme would be very large in area. Because of the undulating nature of the landscape, it would remain visible in a number of views, even after hedging and infill planting is mature. It would be a prominent and incongruous feature seen from a significant part of the public footpaths crossing the fields to the north³⁹, particularly in winter when leaf cover

³⁹ Photoviews 9, 10, 11, 12 of the LVIA

- would be substantially less. The visibility of the rear of the panels (which would be facing in the opposite direction) would be enhanced by the slope on which they would be mounted on the north and east side of the site and the inevitable stepping in the rows to accommodate it. The proposed infill tree and hedge planting would not conceal the panels in all of these views, even when it reached maturity. Complete concealment might not be necessary to make the development acceptable, but the effectiveness of screening is an important consideration when assessing the magnitude of effect. In landscape terms, the remaining visible extent of the development would be so expansive seen from the north, especially in the winter months, as to comprise a high magnitude of change to landscape character and for visual receptors such as walkers and local occupiers at Old Parham Hall. Using the assessment criteria referred to by the parties⁴⁰ this would be a change of major/moderate significance in this direction.
192. Moreover, the extensive area of panels would be seen in conjunction with the existing large substation which dominates a dip in the landform where a ditch runs eastwards. The panels would substantially reinforce an existing negative element by association and appearance. [40,76,78]
193. The panels would continue to be visible for up to 5 years from Easton Lane and from points on the opposite side of the valley including Hill Farm and near Moat Hall Farm, until shielding vegetation matured. Security cameras would be an urban feature, albeit small in the overall scale of things, which would appear above the boundary planting seen from Easton Lane and from the north. The proposed planting is an essential component of the scheme if it is to be assimilated into this sensitive landscape without unacceptable harm.
194. However, importantly, there is no assurance that the mitigation would actually occur; or would occur to the extent envisaged by the appellant. The adjoining neighbouring farmer to the north, who attended the Inquiry, said that the existing hedging and trees on the northern boundary was on his side of the ditch from the appeal site, was under his control and was cut back and maintained to allow light and air to nurture crops on that side. It could be removed at any time. No attempt had been made to negotiate additional planting on his side of the ditch and that would be resisted. [10,43,45,52,160]
195. If planting was proposed on the south (appellant's) side then that would have to be sited and maintained to avoid any detrimental effects on crop growth. Apart from the prospects of reaching agreement with the neighbouring farmer, it is unclear from the application plans whether there would be sufficient space for the solar panels, new planting on the south side of the ditch as well as a security fence and room for access to maintain the ditch and the panels.
196. On the south side, new hedge planting is shown on the indicative application plan drawing. If this succeeded in becoming established, the development would be largely concealed from public view from the east and south after about 5 years.
197. A line of timber electricity pylons defines the southern edge of the site crossing the field about 200m away from Easton Lane. The proposed new boundary fence and planting would reinforce this artificial line, which is unusually straight and

⁴⁰ The Guidelines for Landscape and Visual Impact Assessment 2nd edition (now superseded by the 3rd edition)

does not reflect historical field boundaries. As such it would not conform to the first land management guideline of the LCT which is to reinforce the historic pattern of sinuous field boundaries. Although there is now no trace of the original hedgerows that once divided the appeal site, an opportunity has been missed to recreate a field pattern that is generally organic in appearance. I hesitate to conclude that this weighs heavily against the proposal, as field boundaries are not controlled, but there are no other straight field boundaries of this length in the locality. [45,75]

198. A large solar farm has been installed at the WW2 Parham airfield, also within LCT 1 a short distance away, but there are distinct differences between that scheme and the appeal proposal. The airfield is entirely on the plateau and the panels confined to flat land and because of this, their visibility is very significantly reduced. The surrounding land is also flat consistent with its former use, and retains industrial activity as well as a museum in the former control tower, which lends meaning to the remaining areas of concrete and flat fields which do not have the same landscape interest. It is significant that the airfield is not included in the SLA.

199. The appellant has given very little weight to the recreational use of Easton Lane, but over the period of the Inquiry (admittedly a short time, but in good weather and light evenings) I observed walkers and cyclists using this route, which is a pleasant country lane between villages with attractive views. This is consistent with the evidence of local residents. [74,81]

200. I conclude on the landscape and visual issue that a major/moderate adverse impact is likely on the landscape and for recreational users and occupiers on the north side of the development. From other viewpoints, there would be a moderate impact that would reduce if and when mitigation planting matured over the first 5 years, but for the reasons set out in paragraphs 174-183, the Secretary of State is invited to give the s106 UU little weight. Mitigation planting may not be maintained for the life of the development. The harm would conflict with the aims of saved policy AP13 and CSDMP policy SP15. [39-46,75-79,108-111]

The effect on the setting of listed buildings and other heritage assets

201. The closest listed building is Abbey Farmhouse, which includes within its curtilage the adjoining converted farm buildings which are separately owned and occupied. The building is timber framed and of late 16th century origin in a typical Suffolk plan arrangement. Notably, it has been altered relatively little compared with many others. The building would have enjoyed considerable status because of its association with the Glevering estate and the surrounding farmland south of East Lane. The house is orientated to look predominantly eastward with few windows looking north towards the site. Those that do are on the ground floor and associated with ancillary accommodation. Views from these windows are restricted by the front garden hedge and Easton Lane. More pertinent are views from the second floor bedrooms facing west which would have a somewhat oblique view of the site but this would be substantially mitigated by the proposed barrier planting.

202. The Council's main concern is that the agricultural setting of the building would be affected to the extent that the significance of the historic asset itself would be substantially harmed, in the terms set out in the NPPF. The NPPF has as a core

planning principle that heritage assets should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 132 says that great weight should be given to an asset's conservation; the more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. It goes on to say that heritage assets are irreplaceable and any harm or loss should require clear and convincing justification. Substantial harm to or loss of a Grade II listed building, park or garden should be exceptional.

203. In respect of heritage matters, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty for decision makers which is that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Having carried out the duty, it is not the case that any level of harm would be unacceptable; the NPPF advises that the public benefits of a proposal should be weighed in a proper assessment of the balance, a principle continued by Government in the very recent PPGRE.
204. The PV panels would be more than 100m away from the house behind (ultimately) a hedge of species typical of the area. They would not be on land historically associated with the house and would not be easily seen from it. When the mitigation planting is mature, there would be no locations from which passers-by on Easton Lane or the adjacent footpath would be able to see any panels in conjunction with the house; it is likely that only a few CCTV cameras might perhaps be seen, but those would be insignificant compared with the electricity transmission poles that already cross the field. The fabric and surrounding garden and barn behind the house would be unaffected. Although it is possible that development within the setting of an asset could cause a substantial loss of its significance, the scale and prominence of the solar panels in this case would fall well short of that threshold. There would be slight harm to significance because of a limited degree of harm to setting, but there would not be substantial harm in terms of the NPPF. [48-50,89-96,114]
205. Turning to Moat Hall, this Grade II* asset and Scheduled Monument lies on the opposite side of the Ore valley just under 1 km away from the nearest part of the site. A public footpath passes the Hall from which it would be possible to see the panels, partly hidden by woodland around Blomvyle Hall, in conjunction with the moat and the Hall. Mitigation planting would conceal most of them in time. Depending on weather conditions and the time of year, the setting would be affected to varying degrees because the panels would be an industrial feature that would appear incongruous and anachronistic. However, only a small proportion of the overall view would be affected. Modern agricultural buildings lie nearby. The eventual adverse impact to heritage significance would be only slight. [53,86,116]
206. Parham Old Hall (Grade II), on the other hand, lies only around 250m (I note that the appellant's heritage witness records this as 140m) from the site. The panels would be visible, together with the substation, from upper floor windows that have a southerly and westerly aspect. The association the house once had

with the surrounding land has been diminished by the removal of hedges, but it remains a stark and impressive building on the side of a south east facing slope, visible in some far reaching views. The occupiers' day to day experience of the agricultural setting, which the appellant agrees positively contributes to the aesthetic and illustrative historical value of the Hall, would be significantly altered by the proposal which in conjunction with the existing industrial substation and pylons, would occupy a significant part of the view, particularly in winter. This would be further emphasised by the elevation of most of the site about 5m above the Hall. This view is important to its setting.

207. A public footpath passes through and behind the property before crossing fields on a south facing slope. Users of the footpath would notice the development, which would be conspicuous, along with the substation and the listed building in the same context. The difficulties of providing an effective screening hedge on the northern boundary, referred to above, apply equally in this respect. As such the setting of the house would be significantly adversely affected, but there would be no impact on its fabric, or any designed view or vista.[51,52,86,115]
208. Other designated and undesignated heritage assets have been identified such as Hall Farm and Blomvyle Hall, but for reasons of orientation, distance or existing shielding, the proposed scheme would not compromise their heritage significance to any noticeable degree.[118]
209. The development would be in place for 25 years, after which a new planning application would need to be made. It is not certain that the country's energy needs would require replacement of the panels. I give weight to the potential for the land to return to agricultural use which would leave the setting of heritage assets unaffected after that time.
210. I conclude on the issue of cultural heritage that there would be slight harm caused to the settings of Abbey Farmhouse and Moat Hall, but that the rural setting of Parham Old Hall would be significantly harmed, in addition to the existing harm already caused by the substation. The harm would conflict with the heritage protection objectives of the NPPF and the PPGRE.[47,119]

Other matters

Noise

211. Third parties raise concerns about noise. The inverters selected by the appellant and spaced at regular intervals around the development would have cooling fans, unlike those considered at the time the Council made its decision. It also emerged during the Inquiry that smaller 'in line' inverters would be employed under the panels themselves. A report was submitted by consultants before the Inquiry and supported by an additional statement⁴¹ on the last day, after cross examination of the appellant's planning witness. These indicate that at the nearest surrounding properties, noise emitted by the solar park would be very low at around 32 dB LAeq, with a 5 dB penalty applied (in accordance with BS 4142) because of the high frequency tonal quality of the noise likely to be emitted. However, no background noise assessment has been carried out. EN-1

⁴¹ Doc 16

advises at paragraph 5.11.4 that the characteristics of the existing noise environment should be assessed. The submission of an application based on inverters with no cooling fans is one thing; to then change to a noise producing installation without a proper assessment creates uncertainty.

212. Local residents refer to an exceptionally quiet rural environment and I do not doubt that at times, noise levels may well fall significantly below 30 dB. I noted that the most recently installed transformer at the substation has an acoustic screen where it faces Parham Old Hall, which suggests that background noise levels can be very low. Other residents refer to substation noise. BS 4142 advises that when noise levels exceed about 5dB above background they are of marginal significance but when the difference is more than 10dB, complaints are likely. The appellants rely on nearby occupiers being inside their houses with windows open which is likely to reduce noise levels by about 10-15dB. However, at times when the sun is shining brightly, say on a weekend afternoon, I consider residents are more likely to want to be outside. This is also the time when most electricity is being generated and the inverters need the most cooling effect. It is quite conceivable that when background noise levels are below 25dB, there could be a 10dB difference which could represent an unreasonable incursion on people's entitlement to a reasonable degree of quiet enjoyment of their property.⁴² [33,125,162]
213. It is not the intention of Government that new renewable energy facilities should have no impact whatsoever on nearby residents. The benefits of renewable energy will inevitably have some consequences for some people. Adverse impacts need to be reduced to an acceptable degree. There would be other noises from agricultural machinery, traffic and foliage that might raise background levels. However it has not been shown that the noise impact would actually fall within acceptable levels. The appellant resists a condition limiting noise levels but in the light of the lack of background noise level evidence, and the likely variations in types of inverter that could be used and their locations, I consider that such a condition is the only way some assurance can be obtained that noise levels would be acceptable.[32,33,124-128]

Sport

214. A pheasant rearing and shooting business operates within the adjacent woods and across local fields including the appeal site. The appeal scheme would lead to the direct loss of 2 drives out of 10 that operate from the appeal site into the woods and an indirect impact on at least 4 others where shot may fall on the panels. Evidence was provided to show that the panels are able to withstand hail of considerable weight and velocity but there is no information on the shot that is used. The operator of the shoot rents local farmland to provide cover and drives. I do not doubt that there would be an impact on this business but it has not been shown that the harm caused cannot be ameliorated by adjusting the remaining drives and/or renting out other land. The continued operation of the shoot would allow the coppice management of the woodland to continue, which would benefit wildlife. Overall, however, whilst there would be inconvenience for the operator, this matter does not weigh heavily against the proposal.[30,59]

⁴² CPRE Tranquillity map extract at Mr Cook's appendix 9

Ecology

215. NHS and others draw attention to the potential effect on wildlife including various species of birds and bats. However the potential for the currently intensively farmed agricultural land to be laid to grass (mown, meadow or grazed) together with buffer zones and enhancements to hedgerows which would be more extensive than at present, suggests that foraging conditions are likely to improve. There remains some uncertainty as to the extent of use of the existing field by wildlife. On balance, if the habitat enhancements can be assured, this matter would weigh slightly in favour of the proposal. [34-36,58,124-131]

Agricultural land quality

216. The appellant produced evidence to show that the appeal site contains approximately 34% subgrade 3a land and 63% subgrade 3b land according to the MAFF Agricultural Land Classification Guidelines, in a very mixed pattern. The appellant's specialist agricultural witness confirmed that current technology enables farmers to farm different parts of fields selectively according to ground conditions, so it seems reasonable to conclude that the benefits of the 3a land are properly realised. Local people draw attention to the high productivity of adjacent fields but no figures have been made available for the appeal site. The appellant's witness confirmed that the owners would know the yield of the appeal site and the various parts of it. The actual classification of the land is somewhat open to doubt because of the ground conditions at the time of the survey in July 2013. The field remains in active cultivation and the evidence suggests that it is productive. No evidence has been provided to suggest the appeal site is significantly less productive than other arable land in the area.⁴³ [38]

217. No grazing or haylage or any other agricultural operation is proposed by the appellant after the panels are erected, though a wildflower meadow is a possibility. This would in itself require a degree of care to establish and on the evidence, I give little weight to this aspiration and consider it is more likely the site will simply be mown. The NPPF considers land in subgrades 1, 2 and 3a to be the best and most versatile agricultural land and advises that local planning authorities should take into account the economic and other benefits of such land and seek to use areas of poorer quality land in preference to that of a higher quality. Natural England advise that the best and most versatile agricultural land is the most flexible, productive and efficient and which can best deliver future crops for food and non food uses such as biomass, fibres and pharmaceuticals⁴⁴. Although the land would be returned to agricultural production at the end of its use for renewable energy, the intervening period of 25 years loss of production on subgrade 3a land counts against the proposal. [27,28,37,38,122]

218. Field drains have been installed which have substantially enhanced the productivity of the land. Insertion of the steel panel supports is likely to have some impact on their effectiveness and repairs would be necessary on decommissioning, if the land is to be brought back into productive agricultural use. However it would be almost impossible to record the damage incurred to drains during installation because only indicative location plans are available. Repairs could form part of a scheme of decommissioning, which is the subject of

⁴³ See Mr Kernon's evidence pp 7 & 8 and appendices

⁴⁴ NE Technical Information Note 049

a suggested condition. I do not consider that the resulting level of damage would be so severe as to seriously affect the productivity of the land in the long term. [27,28,38]

Overall balance and conclusion

219. The Government is committed to substantially increasing the deployment of renewable energy across the UK and recognises the potential role and contribution that solar PV can play in helping to meet the UK's target of 15 per cent renewable energy by 2020, reducing greenhouse gases and supporting the decarbonisation of the economy in the longer term. The production of between 25-30MW of electricity is a very significant factor in favour of the scheme as it could supply up to 7500 dwellings; and solar is a long way short of the technical maximum possible in the UK⁴⁵. The potential for a degree of increased biological diversity due to new mitigation hedging weighs in favour only if the Secretary of State considers the UU and associated agreements carry weight. The scheme would be temporary and would be removed after 25 years. [18,149]
220. Against that, there would be a major/moderate adverse impact on the landscape as perceived from the north side of the development and a similar visual impact for local recreational walkers and the occupiers of Parham Old Hall. The panels, brick inverter housings and boundary fencing would be visible on all sides of the site for at least 5 years (longer if the Secretary of State considers that the UU and associated agreements carry little weight) and CCTV cameras on conspicuous poles would also be visible. For 25 years, slight harm would be caused to the settings of listed buildings at Abbey Farmhouse and Moat Hall. The setting of Parham Old Hall would be more significantly harmed. Having regard to S66 of the LBCA, considerable importance and weight attaches to this harm. However it would fall short of the level of 'substantial harm' in terms of the NPPF.
221. The site is not previously developed land and comprises agricultural land of subgrade 3a and 3b in terms of quality, which is actively farmed and likely to continue as such. The PPGRE encourages the effective use of previously developed land, and if a proposal does involve greenfield land, that it allows for continued agricultural use. In this case there are no assurances that the land will be used for any agricultural purpose after the panels are installed. The loss of a substantial area of productive agricultural land for at least 25 years is a significant negative factor.
222. Cumulatively, these disadvantages significantly outweigh the benefits of the scheme. Moreover, there is significant doubt that maintenance and retention of the mitigation planting could be ensured for the 25 year life of any permission; along with the ecological benefits of that. The ongoing maintenance of the boundary planting on the north and south sides is a critical consideration because of the site's location in an area of countryside that is of special quality. [62,83,97-101,103,110,111,134-140,144]
223. All the other matters raised have been taken into account. There is no evidence that tourism would be affected or that electromagnetic radiation would exist at harmful levels. There would not be a significant cumulative impact associated with the solar PV scheme at Parham airfield. [108,122,158]

⁴⁵ Paragraph 13 of the 2013 PV Strategy Part 1

224. The proposed solar park cannot be made acceptable and would conflict with the aims of saved LP policy AP13, the relevant aims of CSDMP policies SP12 and SP15, and the objectives set out in the NPPF and PPGRE.

Formal recommendation

225. I recommend that the appeal should not succeed. Should the Secretary of State disagree, then I recommend the conditions set out in Annex B to this report should be attached to any planning permission.

Paul Jackson

INSPECTOR

Annex 1

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Harriet Townsend	Of Counsel
She called	
Nicholas Newton BA (Hons) MSc MSGD	Arboriculture and Landscape Manager, Suffolk Coast District Council
Robert Scrimgeour RIBA MRTPI IHBC AIFA PG CERT UD	Senior Design and Conservation Officer, Suffolk Coast District Council
Mrs E Beighton BA TP MRTPI	Development Management Team Leader, Suffolk Coast District Council

FOR THE APPELLANT:

Paul Maile	Eversheds LLP
He called	
Andrew Cook BA (Hons) MLD CMLI MIEMA CEnv	Pegasus Group
Richard Morton MIFA	Cotswold Archaeology
Tony Kernon BSc (Hons) MRICS FBIAC	Kernon Countryside Consultants
Paul Burrell BSc (Hons) Dip TP MRTPI	Pegasus Group
Rebecca Sambrook BSc(Hons) MCIEEM	Avian Ecology Ltd

FOR NO HACHESTON SOLAR:

Andrew Turney	Of Counsel, instructed by Richard Buxton Solicitors
He called	
Christine Darby	Local resident

INTERESTED PERSONS:

Malcolm Robinson	Hacheston Parish Council
Philip Thomas	Local resident
Andrew Houseley	Local resident

DOCUMENTS

- 1 Extracts from National Planning Practice Guidance (web based) relating to the historic environment
- 2 Statement of Common Ground
- 3 Agreed set of application drawings
- 4 Topography plan of the proposed solar park, provided by the appellant
- 5 Site plan of Great Glemham Solar Farm (Parham Airfield) provided by the

- appellant
- 6 Representation from Mr Robinson
 - 7 Representation from Mr Houseley
 - 8 Note on Special Landscape Area policy, provided by the Council
 - 9 Letters dated 10 and 30 September 2013 from the Suffolk Preservation Society
 - 10 Plan of shoots operated in woods to west of appeal site and across appeal site, provided by NHS
 - 11 Copy of email correspondence in September 2013 between Pegasus Planning Group and Suffolk County Council, relating to the SLA
 - 12 Plan ref H.0311_32-A showing proposed hedge plan and section, provided by the appellant
 - 13 Clarification note from the appellant covering Inspector's questions on security fencing, security cameras and the ability of panels to withstand falling shot
 - 14 Copy of Secretary of State decision and Inspector's Report ref APP/Z2830/A/11/2155999 (PV park at Culworth Grounds) provided by the appellant
 - 15 Text of speech given by Greg Barker MP to the Large Scale Solar Conference on 25 April 2013, provided by NHS
 - 16 Letter and enclosure from LF Acoustics Ltd in response to queries raised by Inspector
 - 17 High Court Judgement, East Northamptonshire DC v Secretary of State for CLG [2013] EWHC 473, supplied by NHS
 - 18 High Court Judgement, Derbyshire Dales DC/Peak District National Park Authority and Secretary of State for CLG/Carsington Wind Energy Ltd [2009] EWHC 1729, supplied by the appellant
 - 19 Court of Appeal Judgement, R. (on the application of Langley Park School for Girls Governing Body) v Bromley LBC [2009] EWCA Civ 734, supplied by the Council
 - 20 Option Agreement signed in counterpart, between Notcutts Ltd and Daylighting Energy Ltd and Moser Baer Clean Energy Europe Ltd. Includes a copy of the lease.
 - 21 Unilateral Undertaking from Notcutts Ltd and Daylighting Energy Ltd to Suffolk Coastal District Council, signed in counterpart
 - 22 Responses to DECC documents, received 14 February 2014

Annex 2

Suggested conditions

o.	Condition	Reason
1	The development hereby permitted shall be begun before the expiration of three years from the date of this decision.	In accordance with Section 91 of the Town and Country Planning Act 1990 as amended.
2	Except as set out in these conditions, the development hereby permitted shall not be carried out except in	For the avoidance of doubt and in the interests of proper

	accordance with the approved drawings, numbers H.0311 04-1 – Solar Panel Detail, H.0311 05-A (received 4 September 2012) and H.0311 03-E – Site Layout (received 21 November 2012).	planning
3	The planning permission hereby granted is for a period of 25 years from the date of first export of electricity from the solar park to the grid (the 'first export date') after which the development hereby permitted shall be removed. Written notification of the first export date shall be given to the local planning authority no later than 14 days after the event.	To ensure that the impact of the development exists only for the lifetime of the development
4	Not less than 12 months before the expiry of this permission, a Decommissioning Method Statement (DMS) shall be submitted to and approved in writing by the local planning authority. The Decommissioning Method Statement shall include details of the removal of the panels, cables and buildings from the site, together with repair of damage that may have arisen to the clay pipe drainage system and a timetable. The DMS shall also include details of the proposed restoration. The site shall be decommissioned, the panels, cables and buildings removed and damage repaired in accordance with the approved DMS and timetable.	To ensure that the impact of the development exists only for the lifetime of the development and in the interests of the amenity of the area
5	If any of the individual solar panels hereby permitted ceases to export electricity to the grid for a continuous period of 6 months then, unless otherwise agreed in writing by the local planning authority, a scheme of restoration shall be submitted to the local planning authority for its written approval for the removal of the solar panel(s) and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall be fully implemented within 6 months of the date of its written approval by the local planning authority.	To ensure that the landscape impact of the development exists only for the lifetime of the development
6	No machinery shall be operated, no process shall be carried out and no construction traffic shall enter or leave the site outside the hours of 08:00 – 18:00 Monday to Friday, nor outside the hours of 08:00-13:00 on Saturdays, and not at any time on Sundays or Bank Holidays.	In the interests of the amenity of the area and the living conditions of nearby occupiers
7	Development shall not commence until a ecological management and mitigation scheme (EMMS) for the site is submitted to and approved by the local planning authority. This shall include measures for management of the land buffering the ancient woodland and details of the enhancement measures proposed, encompassing but not limited to the recommendations contained in the Ecological Appraisal dated 17 August 2012. No electricity shall be generated from the development	To preserve and enhance the biodiversity of the site and its surroundings

	until the EMMS has been implemented in full in accordance with the approved scheme. Thereafter the EMMS shall be implemented for the period the solar park is operational.	
8	<p>Development shall not commence until a landscape management plan (LMP) for the site is submitted to and approved by the local planning authority. The LMP shall include planting proposals with mitigation measures as shown on Drawing No. H.0311 03-E. The planting and mitigation measures shall be completed before the erection of any panels or panel supports, or before a date that may be agreed in writing with the local planning authority. Any trees or plants which die during the first 5 years shall be replaced by plants of the same species during the next planting season.</p> <p>Thereafter the LMP shall be retained and planting and mitigation measures maintained for the period the solar park is operational.</p>	To ensure that mitigation screening planting is put in place
9	No development shall take place until details of the make, model and noise emissions of all inverters and the design and appearance of their housings have been submitted to the local planning authority and approved in writing. The invertors and housings shall not be installed otherwise than in accordance with the approved details.	In the interests of the amenity of surrounding residential occupiers and the character and appearance of the area
10	The rating level of the noise emitted from the development from fixed plant and equipment shall not exceed a level of 32dB(A) outside any dwelling at a distance not less than 3.5 metres from any façade of that dwelling containing a window to a habitable room. The measurements and assessment shall be made in accordance with BS 4142:1997.	In the interests of the amenity of surrounding residential occupiers
11	Prior to the commencement of development, details of the security fence including confirmation of appearance, colour, materials and access for wildlife shall be submitted to and approved in writing by the local planning authority. The fence shall be erected in accordance with the approved details and thereafter retained for the duration of the operation of the solar park.	In the interests of the character and appearance of the area
12	Prior to the commencement of development, details of the siting and specification of CCTV cameras, including supporting posts, shall be submitted to and approved in writing by the local planning authority. The CCTV equipment shall be erected in accordance with the approved details and thereafter retained for the duration of the operation of the solar park.	In the interests of the character and appearance of the area

13	<p>No development shall take place until a Construction Method Statement ("CMS") has been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall be carried out in accordance with the approved CMS. The CMS shall include:</p> <ol style="list-style-type: none"> a) Details of any temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development; b) Dust management and cleaning of vehicle wheels; c) Pollution control measures in respect of: <ul style="list-style-type: none"> • Water courses and ground water • Bunding and storage areas • Foul sewerage • Construction noise mitigation measures d) Temporary site illumination during the construction period; e) Details of the proposed storage of materials; f) Details of surface treatments and the construction of any hard surfaces and tracks; g) Details of emergency procedures and pollution response plans; h) A Site Construction Environmental Management Plan to include details of measures to be taken during the construction period to protect wildlife and habitats including nesting birds; i) Details of how any construction compound and associated construction works will be reinstated, including a timetable for completion of the post construction restoration and reinstatement works. 	To protect the amenities of the area during the construction process
14	Unless otherwise agreed in the approved Construction Method Statement or Decommissioning Method Statement, there shall be no external artificial lighting installed or operated at the site.	In the interests of the character and appearance of the area
15	No development shall commence until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted and approved in writing by the local planning authority.	In view of the potential for items of archaeological interest
16	<p>No development shall take place until a Field Drainage Management Plan (FDMP) has been submitted to and approved in writing by the local planning authority. The FDMP shall include:</p> <ol style="list-style-type: none"> a) Details of existing records and measures to record the locations of existing field drains during construction; 	In view of the existence of field drains and the risk of flooding

	<p>b) Details of measures to record the impact of the development on the existing drains;</p> <p>c) Details of how any damage will be rectified including a timetable.</p> <p>The FDMP shall be implemented as approved.</p>	
17	<p>Prior to the commencement of development, details shall be provided to the local planning authority of a UK based nominated representative for the development to act as a point of contact for local residents, together with the arrangements for notifying and approving any subsequent change in the nominated representative. The nominated representative shall have responsibility for liaison with local residents and the local planning authority and dealing with any noise complaints made during construction, operation and decommissioning of the solar park.</p>	In the interests of local amenity

Annex 3

Core Documents

1.0 Planning Application

1.1 Planning Application submission folder, containing:

Planning Application Form, statutory notices and covering letter;

Environmental Reports Compendium;

Application Drawings comprising;

Site Location Plan

Indicative Site Layout

Solar Panel Detail

Security Fence Detail

Inverter Cabinet Detail

Control Room Detail

1.2 Planning Statement

1.3 Design and Access Statement

1.4 Statement of Pre-Application Community Consultation

2.0 Planning Policy and Guidance

2.1 Retained policy AP13 of the Suffolk Coastal Local Plan (2001)

2.2 Relevant Extracts of Local Plan: Core Strategy & Development Management Policies Development Plan Document (2013)

2.3 National Planning Policy Framework, March 2012

2.4 Planning Practice Guidance for Renewable and Low Carbon Energy, July 2013

2.5 Overarching National Policy Statement EN-1 on Energy (2011)

2.6 National Policy Statement EN-3 on Renewable Energy Infrastructure (2011)

3.0 Energy Policy and Guidance

3.1 Renewable Energy Directive 2009/28/EC

3.2 The UK Renewable Energy Strategy (HM Government, July 2009)

3.3 Statutory Instrument (2011 No 243) - The Promotion of the Use of Energy from Renewable Sources Regulations 2011 (February 2011)

3.4 UK Renewable Energy Roadmap (July 2011)

3.5 UK Renewable Energy Roadmap Update (December 2012)

4.0 Landscape Documents

4.1 Landscape Institute & Institute of Environmental Management & Assessment, 2002 'Guidelines for Landscape & Visual Impact Assessment', 2nd Edition

4.2 Suffolk Landscape Character Assessment (2010)

5.0 Relevant Court Judgement

5.1 Case ref: CO/12831/2012 - Colman vs SoSCLG, Batsworthy Cross, Knowstone, Devon (May 2013)



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.