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COMMERCIAL PROPERTY ADVICE



## **STATEMENT OF CASE**

**Town and Country Planning Act 1990**

**Planning and Compulsory Purchase Act 2004**

**Localism Act 2011**

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**Appeal Against Refusal of Planning Application 22/01108/FULL at Land at Whites Farm, Barleylands Road, Basildon, SS15 4BG**

**Full planning application for a proposed battery energy storage site, substation compound, with associated infrastructure, fencing, access road, drainage and landscaping**

**On Behalf Of:**

**Anglo ES Whites Farm Ltd**

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**STATEMENT OF CASE**

**Land at White's Farm, Barleylands Road, Basildon, SS15 4BG**

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**Issued By**

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**Date: 3<sup>rd</sup> November 2023**

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**Approved By**

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**Print Name: John Pearce**

**Date: 3<sup>rd</sup> November 2023**

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## 1.0 INTRODUCTION

1.1 This Statement of Case (“**SOC**”) has been prepared by Harris Lamb Planning Consultancy (“**HLPC**”) on behalf of Anglo ES Whites Farm Ltd (“**the Appellant**”) in respect of an appeal against the decision of Basildon Borough Council to refuse planning permission for planning application 22/01108/FULL for a proposed battery energy storage site on land at Whites Farm, Barleylands Road, Basildon, SS15 4BG (“**the Appeal Site**”). The Appellant is seeking planning permission for:

***“Proposed battery energy storage site, substation compound, with associated infrastructure, fencing, access road, drainage and landscaping (“the Appeal Scheme”)***

1.2 The planning application (in respect of the Appeal Scheme) was submitted on 28th July 2022. The application was subsequently validated on 29<sup>th</sup> July 2022. The 13 week target determination date was the 23<sup>rd</sup> September 2022. The application was reported to Members of the Council’s Planning Committee on the 5<sup>th</sup> July 2023 and refused by notice dated 6<sup>th</sup> July 2023 (see Core Document CD1 for the Committee Report and CD2 for the Decision Notice). The decision notice contained one reason for refusal:

***“1. The proposal represents inappropriate development within the Green Belt which is by definition harmful and prejudicial to the openness of the Green Belt. The proposed development is in conflict with Green Belt purpose (c) of paragraph 138 of the NPPF. The very special circumstances that have been evidenced do not provide sufficient reason to justify a departure from the National Planning Policy Framework (NPPF). The proposed development would cause significant harm to the openness of the Green Belt by reason of the proposal's location and siting. For these reasons, the proposed***

***development is contrary to paragraphs 147, 148 and 149 of  
the NPPF, 2021..”***

- 1.3 The application plans listed within the Decision Notice are presented at CD3.
- 1.4 It should be noted that the application was originally reported to the Council's Planning Committee on 22<sup>nd</sup> March 2023, but was deferred at the request of members on the day of committee. The July Committee report considered additional information submitted by the Appellant, and the report gave greater weight to the issue of addressing climate change. However, the conclusion of both reports are the same (that no very special circumstances had been demonstrated justifying the grant of consent). It is noted that the July report described the harm to the Gren Belt as 'substantial', whereas the March report described the harm as 'significant'. The March committee report is presented at CD3.
- 1.5 The case for the Appellant is set out below.

## **2.0 DESCRIPTION OF APPEAL SITE AND SURROUNDING AREA**

- 2.1 The Appeal Site is part of a much wider complex of commercial and leisure uses, which comprise of farm buildings, large stables building, indoor arena, ancillary buildings, outdoor manege, associated parking and grazing, and 9 container units used for a variety of industrial and storage purposes. There is a pylon which is located close to the proposed site with overhead powerline, which is visible from the PROW to the north of the proposed site. The pylon infrastructure is the connection point for the project.
- 2.2 The site is approximately 1.61 hectares in size and is located to the east of Barleylands Road, adjacent to the Barleylands equestrian centre. The adjacent area is characterised by fields used for equestrian purposes; the land on the opposite side of Barleylands Road is used to provide football pitches.
- 2.3 Whites Farm is located approximately 2 miles north of the centre of Basildon, 2.5 miles south of the town of Billericay and 4 miles west of the town of Wickford.
- 2.4 The wider area to the east and west of Barleylands Road is occupied by a variety of uses including recycling centre, equestrian uses, football pitches and tourist camping area. The extent of these various uses is easily appreciated when standing on the Appeal Site.
- 2.5 The fields are bordered in part by mature hedges and trees. The extensive subdivision of the fields by fences associated with equine use (that includes field shelters for horses) and football pitches affects the appearance of the land near the farmstead and equestrian buildings and facilities and erodes the rural character of the surrounding area.
- 2.6 The BESS will be sited to the south beyond the existing farm and equestrian buildings. There are a number of bunds in this area, which are located close to the Appeal Site.

- 2.7 The proposal is screened from long distance views by established hedgerow along Barleylands Road to the west and Wash Road to the south.
- 2.8 The battery storage site adjoins the farm, commercial and equestrian buildings and facilities. In terms of visual impact, any wider views of the site include the overall complex as a backdrop. The presence of existing buildings is such that views directly south from the farm and equestrian buildings would be effectively screened.
- 2.9 In closer views, the battery storage facility would be seen as an extension to the existing complex. The effect of changes in near views would be limited.
- 2.10 Having regard to existing character of the site and its surroundings, the siting of the BESS in the Green Belt would, with new landscaping, be assimilated in visual terms.
- 2.11 The Appeal Scheme is approximately 250m away from the nearest residential properties on Wash Road.
- 2.12 Access to the proposed BESS site is via the existing access to Whites Farm and the Equestrian Centre from a point off Barleylands Road. The access runs from the road in an easterly direction. The existing track is made of hard surfacing.
- 2.13 There is no ecology designation on site or nearby. The EA flood map shows that the site is within Flood Zone 1. The site is Grade 3 agricultural land. There are no landscape, historic or environmental designations on site or nearby.
- 2.14 There is a nearby housing allocation for delivery of around 400 homes on the opposite side of Wash Road to the south of the site, close to the junction with Barleylands Road (Policy H10 Land East of Noak Bridge, Basildon).

### 3.0 DESCRIPTION OF DEVELOPMENT

3.1 The proposed development is a Battery Energy Storage Facility (“**BESS**”). The facility is temporary and will be removed after 40 years. The facility will use battery technology to offer network balancing and stabilisation services. This is achieved by importing electricity from the UK Power Networks (UKPN) network at times of low demand and high production, converting the electricity from AC to DC through an inverter and charging the battery cells to store the energy, and, exporting this stored electricity back to the network via inverting the electricity back to AC and then on to the network at times of high demand.

3.2 The BESS will be connected to the UK Power network via a connection to the 132kV network which crosses close to the Appeal Site.

3.3 The BESS will consist of:

- An existing hard surfaced access from Barleylands Road, off Barleylands Road connected to the existing highway.
- 132kV Substation and transformer, consisting of:
  - 132/33kV transformer
  - Distribution Network Operator (“DNO”) & Customer switch yards
  - Battery switch room
  - Battery control room
  - Palisade fencing
- Battery compound, comprising of
  - 24 banks Battery storage units
  - Battery Management / Power Control System (transformer / inverters / monitoring system)



- Palisade fencing/Wooden fencing
  - Parking facilities for maintenance vehicles
  - CCTV monitoring system.
  - The land within the substation and battery compound will be laid to gravel.
  - Drainage system made up of swales and filter drains.
  - Landscaping
- 3.4 BESS fire incidents are very few indeed. However, in the unlikely event that one should occur, the BESS will be fitted with the most up-to-date fire detection and extinguishing system.

## **4.0 RELEVANT PLANNING POLICY CONSIDERATIONS**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan is therefore the starting point for the determination of planning applications and appeals. In this case the Development Plan consists of Basildon District Council Local Plan (2007).

### *The Development Plan*

4.2 'The Development Plan' comprises the Basildon District Local Plan Saved Policies 2007 ("BDCLP"). The only saved policy which is applicable to the proposed battery site is Policy BAS GB1 (The definition of the Green Belt) which refers to the Green Belt boundaries as shown on the proposals map.

### *Policy BAS GB1*

4.3 The Local Plan pre-dates the NPPF (the 2012 version and all subsequent versions). The Council has prepared a Supplementary Note (10 October 2018) assessing conformity with National Planning Policy. The note states that Policy BAS GB1 should be afforded weight. However, there have been two amendments to the Framework since the note.

4.4 Given the age of the Local Plan, none of the Saved Policies recognises the potential for the wider environmental benefits associated with increased production of energy from renewable sources to be considered very special circumstances in accordance with paragraph 151 of the Framework.

4.5 It should be noted no Development Plan Policies are referred to by the Council in the Decision Notice. Accordingly, it is the Appellant's position (and presumably the Council's) that national (as opposed to local) Green Belt policy is to be applied to the determination of the Appeal Scheme.

- 4.6 There are no saved policies of the Local Plan that properly reflect the current level of appreciation of need to provide for renewable energy technologies generally and additional battery energy storage facilities specifically as part of a proper response to the climate change crisis and as recognised in up to date national policies (addressed below).

*Withdrawn Basildon Borough Local Plan 2014-2034*

- 4.7 On 3 March 2022, the Council resolved to withdraw the emerging Basildon Local Plan (2012-2034) from examination.
- 4.8 There were draft policies on renewable energy in the withdrawn emerging Local Plan, as set out below.
- 4.9 Chapter 5 (vision & objectives), Strategic Objective SO3 (Minimise our Impact on the Environment), stated:

*“Promote the efficient use of resources by embracing sustainable patterns of development including...increasing the use of renewable energy technologies and minimising pollution including greenhouse gas emissions.”*

- 4.10 Policy CC7 (Renewable Energy Infrastructure), states:

*“Proposals for renewable and low carbon energy schemes will be positively considered provided they are in a sustainable and accessible location and comply with all other policies within the plan.”*

**National Planning Policy**

The National Planning Policy Framework (2023)

- 4.11 The latest version of the National Planning Policy Framework (“the Framework”) was issued in September 2023. At the heart of the Framework

is the presumption in favour of sustainable development (Paragraph 10). The Framework explains that at a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

- 4.12 Paragraph 5 of The Framework states that ‘National policy statements form part of the overall framework of national planning policy and are a material consideration in overall decisions on planning applications.’ As such the Overarching National Policy Statement for Energy (EN-1) is a material consideration which must be taken into account in the determination of this Appeal.

*The Presumption in favour of sustainable development*

- 4.13 The presumption in favour of sustainable development is set out at Paragraphs 11-14. This includes approving development proposals that accord with the Development Plan without delay and in addition:

**“d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:**

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or**
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”**

- 4.14 The Framework identifies three dimensions of sustainable development as follows: Economic, Social and Environmental:

- a. an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improve productivity;
- b. a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; with accessible services and open spaces that reflect current and future needs;
- c. an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

*Decision-making*

- 4.15 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way and should seek to approve applications or appeals for sustainable development where possible.
- 4.16 Paragraph 47 confirms that applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

*Meeting the challenge of climate change, flooding and coastal change*

- 4.17 Basildon DC has not declared a climate change emergency. However, the Basildon Council Draft Climate and Action Plan (adopted July 2021) has set a zero carbon emissions target by 2030, and net zero emissions by 2050. The Council will be undertaking further consultation on their more detailed Action Plan. Clearly, the Appeal scheme will help the Council to fulfil the objectives

set out in the Action Plan. The Council's strategy to combat climate change is discussed more fully in Section 5 below.

- 4.18 Paragraph 152 of the Framework states that the planning system should support the transition to a low carbon future and that it should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience and support renewable and low carbon energy and associated infrastructure.
- 4.19 Paragraph 153 states that plans should take a proactive approach to mitigating and adapting to climate change and that policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.
- 4.20 Paragraph 158 states that when determining planning applications for renewable and low carbon development local planning authorities should not require applicants to demonstrate the overall need for renewable and low carbon energy and approve applications if its impacts are (or can be made) acceptable.

*Promoting sustainable transport*

- 4.21 Paragraph 110 states development should ensure that safe and suitable access to the site can be achieved for all users whilst paragraph 111 states that planning permission should be allowed unless there would be an unacceptable impact on highway safety, or the residual cumulative impact of the development would be severe.

*Achieving well-designed place*

4.22 Paragraph 126 confirms that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

4.23 Para 130 sets out six criteria against which proposals should be judged. We assess these matters in more detail in Section 5 below.

*Protecting Green Belt Land*

4.24 Paragraph 137 confirms that the Government attaches great importance to Green Belts.

4.25 Paragraph 147 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 goes on to state that:

*“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*

4.26 Paragraph 149 confirms that the construction of new buildings in the Green Belt should be regarded as inappropriate and lists the exceptions to this, whilst paragraph 150 goes on to list other forms of development in the Green Belt that are not inappropriate development.

4.27 Paragraph 151 states that:

*“When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider*

*environmental benefits associated with increased production of energy from renewable sources.* (our emphasis)

*Conserving and enhancing the natural environment*

- 4.28 Paragraph 174 states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, and, amongst other things, recognising the intrinsic character and beauty of the countryside. Paragraph 174(a) refers to protecting and enhancing valued landscape. The Appeal Site is not a valued landscape.
- 4.29 Paragraph 183 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions. Paragraph 185 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely significant effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

*National Policy Statement for Energy EN-1 (July 2011)*

- 4.30 The energy National Policy Statements (NPS) set out the Government's policy for the delivery of energy infrastructure. They were first published in 2011. NPS EN-1 sets out national policy for energy infrastructure and states at paragraph 1.2.1 that it:

*“Is likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended).”*

- 4.31 Part 2 of the NPS sets out the Government's policy for major energy infrastructure. It comprises the need to meet legally binding targets to cut greenhouse gas emissions, transition to a low carbon economy, decarbonise the power sector, reform the electricity market, secure energy supplies,



replace outdated energy infrastructure, and widen objectives of sustainable development.

### **Other Relevant Legislation and Planning Policy and Guidance**

#### *Climate Change Act 2008*

- 4.32 The Climate Change Act 2008 contains the UK's approach to tackling and responding to climate change. It introduced the UK's long-term legally binding 2050 target to reduce greenhouse gas emissions by at least 80%, relative to 1990 levels.
- 4.33 The Government subsequently amended the headline target (in 2019) to achieve a 100% (compared to 1990 levels) reduction by 2050 (also known as net zero).

#### *National Policy Statement for Renewable Energy Infrastructure EN-3(July 2011)*

- 4.34 The NPS states that electricity generation from renewable sources of energy is an important element in the Government's development of a low-carbon economy. It sets ambitious renewable energy targets and states that a significant increase in generation from large-scale renewable energy infrastructure is necessary to meet the then 15% renewable energy target.

#### *Planning Practice Guidance -Planning for renewable and low carbon energy:*

- 4.35 National Planning Practice Guidance ("PPG") recognises that Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable (Paragraph: 001 Reference ID: 5-001-20140306).
- 4.36 Specifically, in respect of BESS, the PPG records that:

*“Electricity storage can enable us to use energy more flexibly and decarbonise our energy system cost-effectively – for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g. solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity.”*

(Paragraph: 032 Reference ID: 5-032-20230814)

### **Emerging National Planning Policy**

#### *Draft National Planning Policy Framework (Dec 2022)*

- 4.37 The Draft Framework reiterates the Government’s approach to mitigate and limit climate change. It provides strengthened policy for on shore wind in certain circumstances, increased thermal efficiencies, and significantly, it retains the recognition that need for renewable energy projects may comprise very special circumstances justifying inappropriate development in the Green Belt.
- 4.38 The September 2023 Framework included a revised approach to on-shore wind developments, with a further revision of the Framework anticipated in the coming months.

#### *Revised (draft) National Policy Statement for Energy (Dec 2020)*

- 4.39 In December 2020, the Government published its Energy White Paper, Powering our net zero future. It seeks to build on existing policy commitments set out in the Prime Minister’s ten-point plan for a Green Industrial Revolution and the National Infrastructure Strategy. Both documents were published in November 2020 and together they set out the Government’s vision of how the UK will make the transition to net zero by 2050. In its White Paper, the Government also committed to publish an Industrial Decarbonisation Strategy, and a Hydrogen Strategy, both of which were published in 2021.

*Draft National Policy Statement for Energy EN-1 (March 2023)*

- 4.40 Draft EN-1 sets out the overarching planning framework for all energy infrastructure and the policy context for the Secretary of State's decision making on all Nationally Significant Infrastructure Projects (NSIPs).

*Draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure EN-2) (March 2023)*

- 4.41 Draft EN-2 outlines the planning policy to apply to built infrastructure which produces electricity from fossil fuels. To reflect the Government's ambition to move away from fossil fuels, the revised (draft) EN-2 has been renamed as "natural gas electricity generation" (formerly fossil fuel electricity generation). EN-2 has subsequently been revised to state that in order to achieve the transition to net zero, coal and large-scale oil-fired electricity generation needs to be phased out.

*Draft National Policy Statement for Renewable Energy Infrastructure EN-3 (March 2023)*

- 4.42 Draft EN-3 outlines the planning policy for renewable energy infrastructure developments. The revised draft does not specifically refer to the provision of BESS but notes "*Electricity generation from renewable sources of energy is an essential element of the transition to net zero. Our analysis suggests that demand for electricity is likely to increase significantly over the coming years and could more than double by 2050. This could require a fourfold increase in low carbon electricity generation, with most of this likely to come from renewables*". Without BESS this transfer to renewables will not happen.

**Other Relevant Policy Documents**

*Clean Growth Strategy (October 2017)*

4.43 The Clean Growth Strategy was published in October 2017 (updated in 2018) . The strategy sets out a comprehensive set of policies and proposals that aim to accelerate the pace of ‘clean growth’, i.e. deliver increased economic growth and decreased emissions.

4.44 It sets out a 50 point plan to achieved this. There are a range of points which relate to delivering clean energy and point 37 sets out innovation to reduce the cost of electricity storage, advance innovative demand response technologies and develop new ways of balancing the Grid.

*Net Zero Strategy : Build Back Greener*

4.45 The Net Zero Strategy, published in October 2021, sets out a delivery pathway showing indicative emission reductions to meet the UK’s sixth carbon budget (2033 to 2037).

4.46 It sets out the policies needed to meet the ambitious target of net zero by 2050, including an aim that the UK will be powered entirely by clean electricity by 2035.

4.47 The Net Zero Strategy also confirmed that BESS and wind will be the backbone to achieving a secure, affordable and low carbon energy supply, which means that as part of the energy mix, BESS has a critical role to play.

*The Ten Point Plan for a Green Industrial Revolution*

4.48 In November 2020, the Prime Minister announced his Ten Point Plan for the UK to lead the world into a new green industrial revolution. This innovation programme sets out ambitious policies and significant new public investment to support green job creation, and accelerate our path to achieving net zero by 2050. Spanning clean energy, buildings, transport, nature and innovative technologies, the Ten Point Plan will mobilise £12 billion of Government investment to unlock three times as much public sector investment by 2030; level up regions across the UK; and support up to 250,000 highly skilled

green jobs.

*Powering our Net Zero Future – the Energy White Paper (December 2020)*

- The Energy White Paper 2020 has set within it a target to achieve net zero within the UK by 2050 in efforts to address Climate Change. The Government aims to do this by investing heavily in renewable energy sources with a goal set of 40GW (about 60% of the UK's energy consumption) of offshore wind by 2030.
- Getting a large-scale nuclear project to the investment stages.
- Grow the rate at which electric heat pumps are installed.
- Support the deployment of Carbon Capture Underground Storage
- Establishing a new UK emissions system
- Debating whether to end connections to the gas Grid for new homes.

*Transitioning to a net zero energy system Smart Systems and Flexibility Plan (2021)*

- 4.49 The Plan confirms that energy storage and flexibility is one of the priority areas under the £1bn portfolio, with at least £100 million of innovation. It goes on to reiterate the importance of being able to regulate supply by storing electricity which has been generated through renewables when it is sunny or windy and to use this when demand is higher. Key to achieving this was the opening up of a £68 million competition to accelerate the commercialisation of first-of-a-kind longer duration energy storage. Five successful projects were announced in February 2022.

*Climate Change 2022 Impacts, Adaptation and Vulnerability - Working Group II Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (February 2022)*

4.50 The Working Group II report examines the impacts of climate change on nature and people around the globe. It explores future impacts at different levels of warming and the resulting risks and offers options to strengthen nature's and society's resilience to ongoing climate change, to fight hunger, poverty, and inequality and keep Earth a place worth living on – for current as well as for future generations. Key findings include:

- Human-induced climate change, including more frequent and intense extreme events, has caused widespread adverse impacts and related losses and damage to nature and people, beyond natural climate variability. Some development and adaptation efforts have reduced vulnerability.
- Global warming, reaching 1.5°C in the near-term, would cause unavoidable increases in multiple climate hazards and present multiple risks to ecosystems and humans. The level of risk will depend on concurrent near-term trends in vulnerability, exposure, level of socio-economic development and adaptation. Near-term actions that limit global warming to close to 1.5°C would substantially reduce projected losses and damages related to climate change in human systems and ecosystems, compared to higher warming levels, but cannot eliminate them all.
- Beyond 2040 and depending on the level of global warming, climate change will lead to numerous risks to natural and human systems.

*British Energy Security Strategy (April 2022)*

4.51 The Government's British Energy Security Strategy sets out how Great Britain will accelerate the deployment of wind, new nuclear, solar and

hydrogen – which could see 95% of electricity production by 2030 being low carbon.

- 4.52 The strategy will see a significant acceleration of nuclear power, with an ambition of up to 24GW by 2050 to come from this safe, clean, and reliable source of power. This would represent up to around 25% of our projected electricity demand.
- 4.53 In addition, offshore wind will generate up to 50GW by 2030 – more than enough to power every home in the UK – of which 5GW would come from floating offshore wind in deeper seas.
- 4.54 The Energy Security Strategy demonstrates the Government’s intention to move towards a greater reliance on renewable energy and nuclear energy. As part of the overall strategy there is a move to ensure that sufficient storage is available and that by doing so, the energy generated through renewable means can be used flexibly at times of excess production/or times of peak demand. Battery storage is critical in balancing out the demand and supply of energy.

*Powering Up Britain Energy Security Plan (March 2023)*

- 4.55 The Energy Security Plan builds on last year’s Energy Security Strategy. The report announced a number of measures including: an extension of the Climate Change levy, new investment in heat pumps, an extension to the boiler upgrade scheme, establishment of British Nuclear, a new independent body, and government-backed renewable hydrogen projects.
- 4.56 Amongst a number of commitments the document outlines the need for revised energy National Policy Statements which underline the national need for new energy infrastructure, including infrastructure for storage, with the intention of expediting planning processes.

*Powering Up Britain : The Net Zero Growth Plan (March 2023)*

- 4.57 The document plans to decarbonise the power system by 2035. In 2021, the share of generation from renewables reached 40%, including from bioenergy, wind and solar, and 15% from nuclear.
- 4.58 The document seeks to secure reliable, cost-effective, decarbonised power which it describes as critical for a modern industrial economy. Within the Net Zero Strategy, Government committed to a fully low carbon power sector by 2035, subject to security of supply, to underpin our net zero ambitions. To deliver on these goals the document sets out the need to mobilise significant private investment into low carbon technologies and their associated supply chains, across generation, networks, storage and flexibility.

*National Grid Future Energy Scenarios (July 2023)*

- 4.59 National Grid's Future Energy Scenarios outlines a number of credible energy futures options.
- 4.60 The document outlines four different pathways for the future of the whole energy system to 2050. Each pathway considers how much energy the UK might need and where it could come from, to build a picture of the ways in which the Country could reach net zero, including the amount of Battery Storage the UK may require (these findings are referred to below).



## 5.0 CASE FOR THE APPELLANT

5.1 The Appeal has been submitted following the Council's decision to refuse planning permission for the Appeal Scheme. A Decision Notice has been issued with a single reason:

***“1. The proposal represents inappropriate development within the Green Belt which is by definition harmful and prejudicial to the openness of the Green Belt. The proposed development is in conflict with Green Belt purpose (c) of paragraph 138 of the NPPF. The very special circumstances that have been evidenced do not provide sufficient reason to justify a departure from the National Planning Policy Framework (NPPF). The proposed development would cause significant harm to the openness of the Green Belt by reason of the proposal's location and siting. For these reasons, the proposed development is contrary to paragraphs 147, 148 and 149 of the NPPF, 2021.”***

5.2 The Appeal Scheme must be determined in accordance with section 38(6) of the 2004 Act. It is noted that no adopted Development Plan Policies are referred to in the Decision Notice. The Framework is referred to in the Decision Notice.

5.3 For ease of reference all three paragraphs of the Framework listed in the Decision Notice are provided below.

*“147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

*148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm*

*to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*

*149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- e) limited infilling in villages;*
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
  - not have a greater impact on the openness of the Green Belt than the existing development; or**

- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”*

5.4 It is agreed that the Appeal Scheme is inappropriate development in the Green Belt, and it is recognised that very special circumstances are required in order to justify the grant of consent. Very special circumstances arise if harm (to the Green Belt and other interests) is clearly outweighed by other factors. In undertaking that balancing exercise, substantial weight attaches to any harm to the Green Belt.

5.5 National Green Belt Policy has evolved since the adoption of Local Plan policies in 2007, and since their review by the Council in 2018. Importantly, the current version of the Framework includes a recognition (introduced in the 2021 version) that the wider environmental benefits associated with increased production of energy from renewable sources may justify a finding of very special circumstances.

5.6 The central material factors that support a finding of very special circumstances in this case are as follows:

1. Need for the Development in terms of:
  - i. Climate Change
  - ii. Energy Security
  - iii. Energy Affordability
2. The availability of a Grid Connection
3. Biodiversity Net Gain
4. Economic and Social Benefits

## **1. Need for the Development**

5.7 Paragraph 158 of the Framework states that local planning authorities should;

*“not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions;”*

5.8 The National Policy Statement for Energy (NPS) EN-1 sets out the urgent need for new energy infrastructure (at paragraphs 3.3.1 & 3.3.15). Action is required in the near-term in order for that need to be addressed. The urgent need for renewable energy infrastructure is driven by the need to address:

- i. climate change
- ii. energy security; and
- iii. energy affordability.

### *i. Climate Change*

5.8.1 There is no doubt as to the catastrophic consequences of climate change. The United Nations ‘Paris’ Agreement (2015) is a legally binding international treaty to pursue efforts *“to limit the temperature increase to 1.5°C above pre-industrial levels.”* The latest findings from the scientific body that advises the United Nations (Intergovernmental Panel on Climate Change) (March 2023) emphasise that there is very little chance of keeping the world from warming by more than 1.5C.

5.8.2 The UK also has a legally binding commitment to transition to a clean energy system, underpinned by the Climate Change Act (2008) which requires achieving Net Zero by 2050.

5.8.3 In addition to the International and National commitments to address climate change, the Council has agreed its Climate Change Strategy

and Action Plan (July 2021)(Core Document 25). The strategy has set a carbon emissions target by 2030, and net zero emissions target by 2050. The Appeal scheme will help the Council to fulfil the objectives set out in the Action Plan.

- 5.8.4 The commitment to Net Zero by 2050 will not be achieved without BESS. They are fundamental to any renewable based electricity system, enabling the essential storage of renewable energy.
- 5.8.5 National Grid's Future Energy Scenarios (July 2023) is presented at Core Document 24. Page 12 of the summary document states that 72 GW of total electricity storage capacity will be required to meet National Grid's Leading the Way scenario by 2050. Figure ES.26 of the main Future Energy Scenario report, sets out the UK has approximately 5GW at present. Therefore, a further 67GW of total electricity storage capacity will be required to meet National Grid's Leading the Way scenario by 2050.
- 5.8.6 To meet this, the UK will need approximately 1,340 BESSs of the size of the Appeal Scheme (50MW) by 2050 to meet the UK's legally binding commitment to Net Zero.
- 5.8.7 It is clear that the need to address climate change, and as a part of that, the need to achieve a very substantial uplift in the delivery of BESS, is an important material factor in the determination of this Appeal.

*ii. Energy Security*

- 5.8.8 Successive Governments have understood the need for the UK to provide its own energy security. However, the outbreak of war in Ukraine has magnified how the UK is exposed to foreign energy imports and volatile energy prices.

5.8.9 The most recent UK Government Policy Announcements - Powering Up Britain Energy Security Plan (March 2023) - detail the need for the UK to provide its own energy and provide a policy framework for how this should be achieved. The introduction to the document states;

*“Putin’s illegal invasion of Ukraine 12 months ago has put the need for energy security in stark perspective. Never again will we allow our energy security to be threatened.”*

5.8.10 Energy security in the UK will inevitably rely on renewable sources to meet the legally binding commitment to achieve Net Zero, and the document states that the UK will move towards energy independence by the late 2030s.

5.8.11 BESS is essential to deliver that objective. The need to achieve energy security is an important material factor in the determination of this Appeal.

*iii. Energy Affordability*

5.8.12 An Affordability Note (May 2023) prepared for the Council is presented at Core Document 39. It sets out that renewable energy costs have been dropping for many years and there is an infinite amount of renewable energy to be harnessed.

5.8.13 The provision of BESS is required to take advantage of available renewable energy.

5.8.14 In addition, National Grid Electrical System Operator has contractual arrangements for constraint payments which, like many system operators across the world, are required to help keep the electricity networks in balance at all times. These contracts result in unintended economic consequences, for example in December 2022 National

Grid spent £82m to pay wind farm operators to turn off turbines to avoid overloading the network.

5.8.15 BESS are essential in order to deliver cheaper electricity and avoid contractual payments to turn off generators. The need to make energy more affordable is an important material factor in the determination of this Appeal.

5.8.16 In summary, it is clear that the need for renewable energy infrastructure, and the contribution that the Appeal Scheme makes to meeting that need, is a matter that carries substantial weight.

## **2. Grid Connection**

5.9 Grid connection is essential to the Appeal Scheme. The Appeal Scheme (and any BESS facility) must be located in an area where there is available capacity for import and export to the National Grid. National Planning Policy statements identify that the site selection process for such facilities is Grid connection led;

*“... it is for the applicant to ensure that there will be necessary infrastructure and capacity within an existing or planned transmission or distribution network to accommodate the electricity generated.” (Para 4.9.1 EN-1 2011)*

5.10 Local Planning Authorities cannot easily address the locational requirements for BESS or other Renewable Energy Projects in their local plans as the capacity of the Grid is fluid and changes (and is outside of the control of local planning authorities). Accordingly, it is left to the developers of such projects to identify (and secure) a Grid connection.

5.11 As part of the site selection process, the Appellant identified a location in the Grid where there is capacity between Rayleigh Substation and Basildon. A screen shot of UK Powers Network’s capacity is presented at Core Document 41.

- 5.12 The Appellant has gained a Grid Connection Offer from UK Power Network. Grid connections are becoming increasingly scarce and that scarcity is currently the primary reason why renewable energy projects are unable to be developed.
- 5.13 The proximity to an available Grid connection has been found to carry substantial weight in various appeal decisions including a BESS in Basingstoke and Deane (APP/H1705/W/21/3289603) (Core Document 43) and a solar farm in Durham CC (APP/X1355/W/22/3308881) (Core Document 44). Reference is made to paragraphs 30 and 22 of those appeal decisions respectively.
- 5.14 Given the importance and scarcity of Grid connections, its availability in the case of the Appeal Scheme carries substantial weight.

### **3. Biodiversity Net Gain**

- 5.15 The Appeal Scheme will deliver biodiversity net gain. The Biodiversity Metric and Preliminary Ecology Appraisal ( Core Documents 30 and 35 respectively) explain how this is delivered and how the proposed landscaping has been developed to deliver bio-diversity benefits.
- 5.16 The proposed scheme includes c. 386.5 m of new native hedgerow comprising 5 no. native species that would deliver 100% Biodiversity Net Gain (BNG) for hedgerows. This should be considered a substantial gain which will exist beyond the life of the proposed development.

### **4. Economic Benefit**

- 5.17 The development will generate new investment and construction jobs during the construction process. The total construction costs for the Appeal Scheme will be approximately £28,000,000 with all of the ancillary benefits for the supply chain when developing a project of such value.



- 5.18 Similarly, once constructed and operational there will be a number of additional jobs created that will entail the ongoing management and maintenance of the facility. These economic benefits attract significant weight.
- 5.19 In summary, it is clear there is an urgent need to address climate change at an international, national and local level. It is also clear there is a pressing need for the UK to secure its own energy, and in turn reduce the impact from volatile energy markets and move to generate cheap renewable energy. A range of appeal decisions are presented at Core Documents 35 to 62. They all attribute substantial or very significant weight to the storage or provision of renewable energy. A table at Appendix 1 provides the description of weight and the relevant paragraph references in those appeal decisions.
- 5.20 The ability to achieve a connection to the Grid is of fundamental importance. Various appeal decisions (referred to within Appendix 1) attribute substantial or significant weight to that factor.
- 5.21 In addition, the generation of Biodiversity Net Gain and economic benefits all attract positive weight in this Appeal, and various appeals presented at Appendix 1 have attributed substantial weight to both.

### **Other Factors**

#### **Lack of Alternative Sites**

- 5.22 It is useful to understand whether there are alternative sites for the development of the Appeal Scheme. We address this issue in light of the suggestion in the Officer's Report that "clustering" should be considered and expressing a preference for the development of electrical infrastructure at existing substations at *Rayleigh; Nevendon; and Basildon*.
- 5.23 This suggestion is flawed because:

1. *There is no National Planning Policy; Development Plan or Supplementary Planning Policy which requires “clustering”.*
2. *Development at such locations could have a greater impact on landscape in any event.*
3. *It is incorrect to assume all substations would have capacity to receive a Grid connection offer.*
4. *Finally, the need for additional BESS facilities is so great, that the question of alternative sites does not realistically arise.*

5.24 With regard to bullet point two, notwithstanding there is no Planning Policy requirement to cluster infrastructure at substations, the Appellant has since instructed MHP Landscape Consultants to assess the impact of developing a BESS close to the three identified substations. The analysis (contained in a revised Landscape Statement (Version 3)) is presented at Appendix 2.

5.25 The assessment concludes that the areas around the substations do not offer any greater capacity in landscape and visual terms to accommodate the Appeal Scheme. Further, with regard to potential effects on the purposes of Green Belt, the alternative sites may increase the degree of conflict.

5.26 With regard to bullet point three, the Appellant has since approached UK Power Networks – (the Distribution Network Operator for the area) regarding the availability of connection at the three substations. All three connections require the installation of a new Super Grid Transformer, which at a cost of approximately £12,000,000 would render the Appeal Scheme unviable at each of those locations. An email from UK Power networks dated 6<sup>th</sup> September 2023 is presented at Core Document 4.

5.27 In summary, there is no policy requirement to consider an alternative approach (that comprises the “clustering” of development. The sites suggested by the Council will result in equal or worse impact on the landscape

and Green Belt interests. No viable Grid connections are now available at any of the three nearby substations, and in any event, the need for additional BESS facilities is so great that the question of alternative sites does not arise.

### Harm

5.28 It is recognised the Appeal Scheme is inappropriate development and harm arises as a result of that inappropriateness. However other harm to the Green Belt (beyond that “definitional” harm) is limited.

5.29 The Basildon Borough Green Belt Review has been assessed as part of the Landscape Statement presented at appendix 2. The site falls within Area 24, and the Appeal Scheme forms only a small component of the wider Area 24.

5.30 Area 24 was assessed against the purposes of Green Belt in the Review with the following findings:

*a) to check the unrestricted sprawl of large built up areas - partly contributes,*

*b) to prevent neighbouring towns merging into one another - partly contributes,*

*c) to assist in safeguarding the countryside from encroachment - partly contributes,*

*d) to preserve the setting and special character of historic towns; and - does not contribute,*

*e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land - not assessed.*

5.31 The Landscape Statement (at Appendix 2 to this Statement of Case) addresses the Basildon Borough Green Belt Review and notes the Council

recognises that Area 24 does not make a significant contribution to the purposes of Green Belt.

- 5.32 In respect of the Appeal Site, the Decision Notice alleges conflict with one of the five Green Belt purposes (at sub-paragraph (c)).
- 5.33 it is accepted that the introduction of any new built form into an undeveloped green field site within the Green Belt is likely to result in some encroachment into the countryside (arising from the physical loss of open land). In the case of the Appeal Scheme, this will only be temporary for the life of the development, i.e. 40 years, and on land which is already impacted by a range built development adjacent.
- 5.34 Accordingly, harm to the Green Belt is limited to that arising from inappropriateness, and some encroachment of development into the countryside. It is recognised that any harm to the Green Belt attracts substantial weight.
- 5.35 The Committee Report provides an accurate assessment when considering other harm. It concludes that the impacts of the Appeal Scheme are all acceptable in terms of: landscape (Para 5.72); loss of agricultural land (Para 5.76); heritage (Para 5.82); archaeology (Para 5.84); drainage (Para 5.92); ecology (para 5.94); Secured by Design (5.96); neighbourhood amenity (5.98); noise (Para 5.100); and highways (5.104).

#### Very Special Circumstances

- 5.36 A summary of the factors in favour of the Appeal Scheme is as follows.
- 5.37 Climate Change: It is clear that the need to address climate change is of fundamental importance in the determination of this Appeal. The contribution made by the Appeal Scheme to meeting that need is a benefit that carries substantial weight.

- 5.38 Energy Security: The need to achieve energy security is an important material factor in the determination of this Appeal, more so since the outbreak of war in the Ukraine. The Appeal Scheme's contribution to addressing that need attracts substantial weight.
- 5.39 Energy Affordability: BESS are essential in order to deliver cheaper electricity. The Appeal Scheme's contribution to meeting the need to make energy more affordable is an important material factor in the determination of this Appeal, and attracts substantial weight.
- 5.40 Grid Connection: Given the importance and scarcity of Grid Connections, its availability in the case of the Appeal Scheme is considered to carry substantial weight.
- 5.41 Biodiversity Net Gain : The generation of Biodiversity Net Gain benefits attract moderate weight in this Appeal (those benefits will last well beyond the life of the development).
- 5.42 Economic and Social Benefits: The generation of economic benefits through both the construction and operational life of the project, together with the social benefits in providing cleaner, more affordable energy should attract moderate weight.
- 5.43 The benefits of the Appeal Scheme very clearly outweigh the harm generated (through inappropriateness and some limited encroachment into the countryside). Very special circumstances exist so as to justify the grant of planning permission.

## **6.0 CONCLUSION**

- 6.1 Whilst it is accepted the Appeal Scheme is inappropriate development and there will be some conflict with bullet point c) of the five Green Belt purposes, there are compelling factors that generate a finding of very special circumstances so as to allow the Appeal.

**APPENDIX 1 :  
RENEWABLE APPEAL DECISIONS  
(SINCE FEBRUARY 2023)**

Appeal Ref No	LPA	Locality	Type of Renewable Development		Weight Given to Issue								
					Storage / Provision of Renewable Energy	Cutting Greenhouse Emissions	Storage facilities need to be close to demand	Local factors: include provision of access to unrestricted network capacity, proximity to production assets, availability of suitable land and the proximity of a point of access to the highway network	Lack of Alternatives	Landscape Buffer	BNP	Financial Investment	
3289603	Basingstoke and Deane	Bramley	BESS	Jan 2023	Substantial (Para 28)		Substantial (Para 29)	Substantial (Para 30)					
3304561	Basingstoke and Deane	Bramley	BESS and Solar	13-Feb-23	Substantial (para 77)							significant (Para 78)	
3318171	Basildon DC	Crays Hill	Solar	30th August 2023	Substantial (Para 29)				Substantial (Para 29)			Substantial (para 26)	
3300623	Selby DC	Fairburn	BESS	Nov-22	Substantial (Para 44)				Substantial (Para 38)	Substantial (Para 22)			
3292837	South Staffs DC	Wolverhampton	BESS	Aug-22	Substantial (Para 14)	Substantial (Para 16)							
3300222	Chelmsford CC	East Hanningfield	BESS and Solar	Feb-22	Substantial (Para 91); Very Substantial (Para 93)								
3315877	Hambleton DC	Scruton	Solar	31-May-23	Substantial (Para36)								
3293104	Mid Devon DC (Recovered Appeal)	Langford	BESS and Solar	Dec-22	Substantial (Para 27, 35, 67) ; Para 35	Substantial (Para 68)						Substantial (Para 23)	Substantial (Para 27)
3279533	Newark and Sherwood	Halloughton	BESS and Solar	Feb-22		substantial (Para 55)						substantial (Para 59)	
3294722	Buckinghamshire	Bourne End	BESS	Jul-23	Substantial (Para 19)	Substantial (para 32)							
3314982	Shropshire Council	Ledwyche	Solar	Jul-23	Substantial (Para 39)	substantial (Para 4)							
3308881	Durham CC	South Hetton	Solar	May 2023	Very Significant (Para 30)	Significant (Para 22)		Significant (Para 22)				Significant (Para 24)	



**APPENDIX 2 :  
LANDSCAPE STATEMENT  
PREPARED BY MHP**



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## LANDSCAPE STATEMENT

PAUL HARRIS CMLI:

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PROPOSED BESS, WHITES  
FARM, BASILDON

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**Town and Country Planning Act 1990 – Section 78 Appeal**

**Planning reference: 22/01108/FULL**

## **1 INTRODUCTION**

- 1.1 I am Paul Harris, a Chartered Member of the Landscape Institute with over 30 years professional experience in landscape assessment and design. I am director of MHP Design Ltd, an established landscape consultancy registered with the Landscape Institute for over 28 years. I have a degree and Diploma in Landscape Architecture from GLOSCAT, now the University of Gloucestershire. I also attend and represent landscape and visual matters for the Gloucestershire Design Review Panel. I have provided evidence on landscape design and landscape and visual matters at a large number of planning appeals over the past 12 years.
- 1.2 I have been instructed by Anglo ES Whites Farm Ltd, to provide a statement on landscape and visual matters for an appeal of full planning application 22/01108/FULL for a proposed Battery Energy Storage Site (BESS), substation compound, with associated infrastructure, fencing, existing access off Barleylands Road, drainage and landscaping (the 'Site').
- 1.3 My statement considers the landscape and visual effects of the proposed BESS development and in particular the visual effects on the openness of the Green Belt in this location.
- 1.4 The statement that I have prepared and provide for this appeal is true and the opinions expressed are my true and professional opinions.

## 2 REASON FOR REFUSAL AND THE SCOPE OF MY STATEMENT

- 2.1 My statement addresses landscape and visual matters with particular focus on the effects of the development proposals on the spatial and visual openness of the landscape in response to Reason for Refusal 1. Reason for Refusal 1 is a single reason for refusal which states:

*'The proposal represents inappropriate development within the Green Belt which is by definition harmful and prejudicial to the openness of the Green Belt. The proposed development is in conflict with Green Belt purpose (c) of paragraph 138 of the NPPF. The very special circumstances that have been evidenced do not provide sufficient reason to justify a departure from the National Planning Policy Framework (NPPF). The proposed development would cause significant harm to the openness of the Green Belt by reason of the proposal's location and siting. For these reasons, the proposed development is contrary to paragraphs 147, 148 and 149 of the NPPF 2021.'*

- 2.3 My statement will draw on the outcomes of the professional landscape assessment that accompanied the application and from observations made during visits to the site and the wider contextual area.
- 2.4 Reason for Refusal 1 is specific to Green Belt. Green Belt is not a 'landscape' policy but there is a visual aspect as visual impact has been found to be implicitly relevant to considering openness (Turner V SSCLG [2016] EWCA CIV 466). I do not focus my statement on landscape and visual harm generally as no significant conflict has been identified by the Council with landscape specific policies at either national or local level. The reason for refusal alleges that the development would represent inappropriate development which by definition would be harmful and prejudicial to the openness of the Green Belt. My statement therefore considers this harm in landscape and visual terms as two distinctive threads. The first being spatial harm arising from the development proposals on the landscape and the second as visual harm arising from the development proposals on the openness of the landscape.

- 2.5 My statement does not address the full implications contained within Reason for Refusal 1 and should be read in conjunction with the planning statement provided by Mr Barton for the Appellant.

### 3. THE DEVELOPMENT PROPOSALS

- 3.1 The application site consists of level land of approximately 1.61 ha, immediately adjoining Whites Farm located off Barleylands Road, Basildon.

- 3.2 As set out in the 'Report to Planning Committee' [CDxx] under Agenda Item 4:

*'The site forms part of Whites Farm which comprises a much wider complex of commercial and leisure uses, farm buildings, a large stable building for 60 stables, indoor arena, ancillary buildings, outdoor menage and associated parking and grazing and nine container units all used for E(g) and B8 Use. There is a pylon which is located close to the proposed site with overhead powerline, which is clearly visible from the public footpath to the north of the proposed site. The pylon infrastructure is the connection point for the battery facility.'*<sup>1</sup>

- 3.3 I consider this an accurate and useful summary of the location of the appeal site, illustrating how built form is already readily established at this location. The committee report goes on to say that the site is located approximately 280m north-west of the Grade II listed Daniels Farm and 300m north of the Grade II Laindon ponds. Furthermore, the report confirms that the site is located approximately 500m north-east of the Noak Bridge Conservation Area. Whilst this paints a picture of a rural idyll, the reality is that the proposed development is not located adjacent to these potentially sensitive locations but rather is located immediately adjacent the significant structures and their associated activities at Whites Farm.

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<sup>1</sup> CDxx 2.2 page 7

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- 3.4 The appeal site is also located adjoining the pylon and overhead cable infrastructure to which the connection point to the grid would be made. This keeps the entire proposed development compact and contained with very limited encroachment beyond the footprint of the BESS itself. The proposed BESS development footprint is not only compact, but it would form part of the overall established footprint of Whites Farm.
- 3.5 I accept that the introduction of the BESS infrastructure will establish built form on land which is presently open. However, it will form a part of an existing development that already has an influence on the openness of the Green Belt in this location. The appeal proposals, in my assessment, would therefore not be seen as an incongruous and isolated development in open countryside where a clear loss of openness would be perceived. I consider this an important point because the appeal site location has been chosen to limit the potential for perceived loss of visual openness due to existing structures and visual containment.
- 3.6 The proposed access track and route of the below ground connection route to the grid will not give rise to any sense of spatial or visual loss of openness. It is only the battery storage containers and ancillary equipment and fencing that have potential to impact on the openness of the landscape. The extent of this spatial impact is identified in the aerial photograph extract provided below:
- 3.7 Figure 1 Proposed BESS at Whites Farm



- 3.8 The proposed BESS immediately adjoins the cluster of existing commercial and agricultural structures at Whites Farm. The battery storage containers which make up most of the new structures that would be introduced to the site, do not exceed 2.85m in height. This is considerably lower than the existing adjoining agricultural structures.
- 3.9 In visual terms the appeal site is well screened from the west (Barleylands Road) by the structures of Whites Farm and by existing field hedges. The appeal site is visible from a single public right of way that is orientated east/ west and which passes immediately north of the main farm buildings. There are also sports pitches located to the east of the appeal site where players and spectators would have potential views of the appeal site. These potential visual receptors are illustrated in Figure 1<sup>2</sup> of the Appellant's LVIA [CDxx]. To mitigate potential visual effects, the development proposals incorporate a new mixed species native

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<sup>2</sup> CDxx digital page 41 of 60

hedge around the perimeter of the proposed development to provide screening when established. This is illustrated in Figure 20<sup>3</sup> of the Appellant's LVIA.

- 3.10 It is accepted (and identified through the Appellant's LVIA) that there would be views of the appeal site and its proposed structures (which I consider in my summary of landscape and visual effects) but these views are limited and localised. They are experienced within an active landscape and predominately seen in the context of the existing farm structures which form the backdrop to views from the east and north east.
- 3.11 I therefore consider that the location of the appeal site provides robust, inherent mitigation that reduces both potential landscape and visual effects at the outset. This is reinforced by new native hedge planting that will provide screening of the appeal site, conserving the existing landscape character and visual amenity.
- 3.12 The location of the appeal site and the development proposals have been evolved to limit change in the landscape by conserving the existing landscape character and character of the views already experienced. Where landscape character is conserved, the overall balance of elements in that landscape such as built form, open field, urban and rural characteristics will not be perceived to have been changed by development. Although there will have been a minor change to the spatial openness of the land immediately adjoining the farm, this change will not be readily perceptible to those active within or passing through the landscape in this location. The assessment outcomes of the Appellant's LVIA can therefore be used as a measure of how successfully the development will assimilate into the landscape, reducing sense of change in that landscape, resulting from loss of openness from the introduction of new built form.

#### **4. LANDSCAPE AND VISUAL ASSESSMENT OF THE DEVELOPMENT PROPOSALS**

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<sup>3</sup> CDxx digital page 59 of 60



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- 4.1 The application was both informed and tested by the Appellant's landscape and visual assessment (LVIA). This assessment was undertaken in two distinct stages. The first stage input into the siting and design of the proposed layout in order to ensure that potential detrimental landscape and visual effects could be limited by design. This included the consideration of additional mitigation measures in order to limit potential harm where siting and design of the layout could not eliminate all potential adverse landscape and visual effects.
- 4.2 The second stage of the LVIA assessed the likely landscape and visual effects and their significance, to inform decision makers of how the proposals impact on the character and appearance of the landscape.
- 4.3 The professional methodology used for the LVIA was found to be acceptable to the Council and confirmed in paragraph 5.65 of the report to committee [CDxx]. Paragraph 5.66 also confirms that the Council are generally in agreement with the judgements of value, susceptibility and sensitivity assigned within the LVIA.
- 4.4 There are differences in professional judgement identified in the report to committee where the report considers the impacts from '*new industrial/urban development*' to be underestimated in the Appellant's LVIA. From reading the report to committee I note that no reference is made to the substantial existing structures which already inform the local character and impact on the existing spatial openness. These structures would form the immediate backdrop seen in local views of the appeal site.
- 4.5 However, putting professional subjective judgements to one side, the report to committee confirms in paragraph 5.69 that the overall effect on landscape character '*is not judged as substantial and can be minimised with suitable mitigation and enhancement measures.*' I therefore consider that both the Council and the Appellant are not far apart in the assessment and interpretation of effects of the proposed development on landscape character.

- 4.6 The Appellant's visual assessment identifies potential visual effects to be limited other than on walkers using a short length of public right of way 310\_200 which passes the appeal site immediately to the north. Views of the appeal site will be seen when approaching from leaving the recreation ground to the east, and when immediately passing the northern boundary. Views are then quickly screened by the existing structures of Whites Farm. Walkers heading eastwards on the public right of way have all views screened by structures of Whites Farm until immediately adjoining the northern boundary of the appeal site. After passing this short boundary the focus of walkers is towards the east and away from the proposed development.
- 4.7 Walkers will experience views of the appeal site in the immediate context of the existing farm structures. As such the development features will appear as part of the mixed cluster of built form already seen.
- 4.8 Although the Appellant's LVIA assesses that there would be a substantial visual harm experienced by walkers until mitigation hedge planting had established. This harm will reduce as the hedging establishes. The report to committee acknowledges that officers were generally in agreement with the assigned value, susceptibility and sensitivity judgements made by the Appellant in the LVIA and agreed that:
- 'On review, the adverse visual impacts will be primarily limited to those within the immediate surroundings, given the topography of the landscape and the vegetation within the local area. Officers therefore support the majority of the visual effects judged. Where judgements may differ, these are not deemed significant or substantial.'*<sup>4</sup>
- 4.9 I therefore conclude that the Appellant's LVIA is accepted as a fair assessment of the landscape and visual effects resulting from the development proposals. As both landscape and visual effects have been assessed to be limited and localised, there would be no

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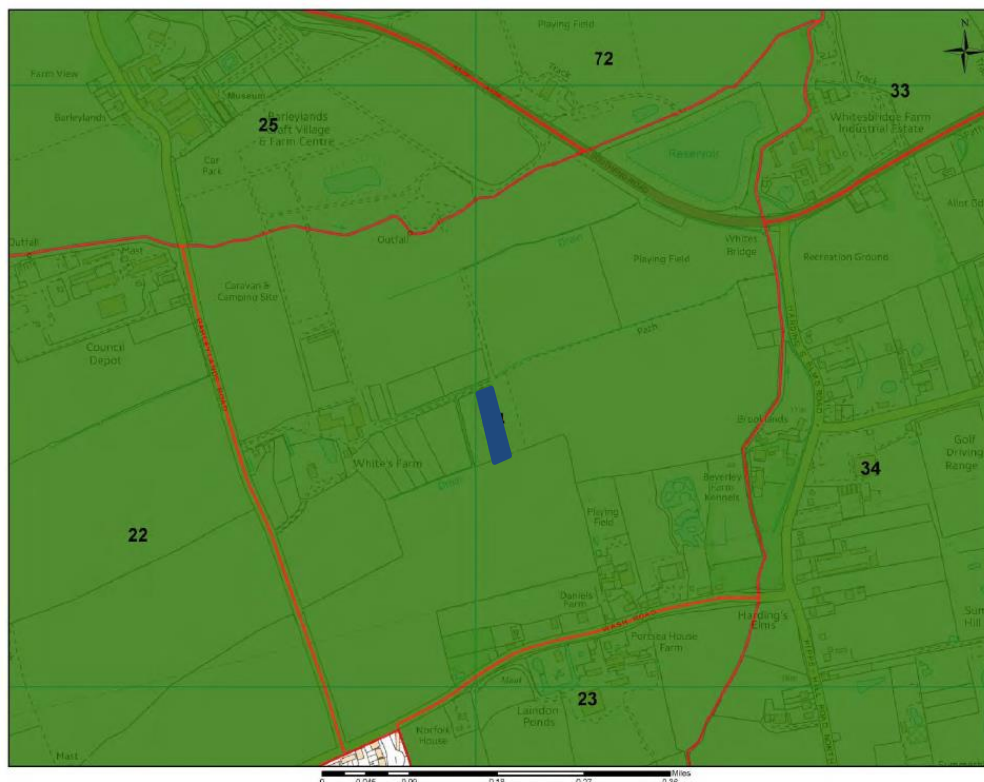
<sup>4</sup> CDxx para. 5.72

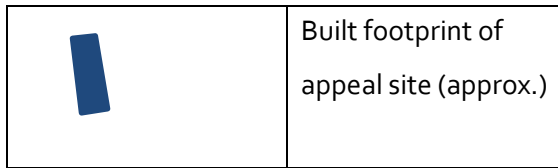
justification to support a separate landscape reason for refusal. I consider this to be important as where there is only limited and localised landscape and visual harm, the overall change to the landscape will be limited. I consider there to be a direct correlation between maintaining limited changes to a landscape and minimising changes to the perceived openness of that landscape with reference to Green Belt.

## 5. CONTRIBUTION TO THE PURPOSES OF GREEN BELT

5.1 The landscape in which the appeal site is located (Area 24) has been assessed in the Basildon Borough Green Belt Review 2017 [CDxx]. The extent of Area 24 is illustrated in paragraph 5.15 of the report to committee but for convenience I include it below in Figure 2

5.2 Figure 2 Area 24 of the Basildon Borough Green Belt Review 2017.





- 5.3 Area 24 measures approximately not less than 68 hectares in area. I note that the current large scale barns and sheds now present on the site are not illustrated in the plan extracted from the Basildon Borough Green Belt Review I show in my Figure 2. I indicate the approximate location of the proposed built form of the BESS on the extract to illustrate how the footprint of the appeal proposals form only a small area of the wider Area 24.
- 5.4 Area 24 was identified to make the following contribution to the purposes of Green Belt:
- a) to check the unrestricted sprawl of large built up areas; **[Partly contributes]**
  - b) to prevent neighbouring towns merging into one another; **[Partly contributes]**
  - c) to assist in safeguarding the countryside from encroachment; **[Partly contributes]**
  - d) to preserve the setting and special character of historic towns; and **[Does not contribute]**
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. **[Not assessed, as per all areas in this Review – as this is the purpose of redevelopment]**<sup>5</sup>

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<sup>5</sup> CDxx para. 5.16

- 5.5 Overall, I assess that the Basildon Borough Green Belt Review identified that Area 24 does not make a significant contribution to the purposes of Green Belt, with only three purposes being partly contributed to.
- 5.6 This limited contribution to the purposes of Green Belt is accepted by the Council in their assessment in the report to committee made in paragraphs 5.17 to 5.22. The Council draw the conclusion that the appeal proposals conflict with only a single purpose of Green Belt, that of (c) encroachment of development into the countryside.
- 5.7 I accept that any introduction of new built form into an undeveloped green field site will result in encroachment into the countryside arising from the physical loss of open land and its replacement with built form. However, of the 5 purposes of Green Belt, the appeal site will only conflict with one purpose which has been identified in the Basildon Borough Green Belt Review for Area 24, to make only a '*partial contribution*' to that purpose of Green Belt in that location.
- 5.8 Whilst I accept that this remains a conflict with Green Belt policy, it is in my opinion a very limited conflict. Particularly because the appeal site is so closely associated with the existing structures of Whites Farm which themselves reduce the local perception of openness so limiting the magnitude of change that would be experienced in local views.

## 6. VISUAL OPENNESS AND GREEN BELT

- 6.1 The Appellant's LVIA identifies that open views into and across the appeal site are limited and localised. This is recognised by the Council who refer to adverse visual effects being limited to the '*immediate surroundings*'. Equestrian and sports participants at Whites Farm and the adjoining sports pitches may have local views but they are generally engaged in activities on which they focus. Walkers using the very immediate footpath are the predominant visual receptors who will perceive the greatest magnitude of change in their views.
- 6.2 These views are experienced for a very short length of the public right of way and generally walking westwards or immediately adjoining the appeal site when walking eastwards. These

views are therefore experienced in a very limited visual envelope or the 'immediate surroundings', as stated by the Council.

- 6.3 All views from the east or northeast of the appeal site will experience the existing farm structures of Whites Farm as a backdrop. The structures create a screen to longer distance views to the west (which would be further limited by hedgerow even if not obscured by existing built form). Whilst visual receptors will experience the open field between their location and the farm structures, the introduction of the appeal site development will make a very limited change to the extent of open landscape that will be seen. Views to the north and south will remain open as far as the adjoining hedgerows which again limit deep views into the wider landscape. The extent of the change likely to be seen is illustrated in the verifiable photomontages submitted as part of the application.
- 6.4 The mitigation hedge planting will predominately screen the general features of the appeal site development so conserving the landscape character and visual amenity. However, as the development proposals will be seen in the immediate context of the White Farm structures, the proposed new hedge will also be seen in this context. I consider this to have a neutral effect on the sense of openness perceived in potential local views as the depth of the views enjoyed will be barely seen to have changed. The introduction of a new native hedge which will, in due course, partly screen the existing agricultural barn in local views, will in my opinion be beneficial in that it will reduce views of the existing barn so reducing the visual prominence of existing built form.
- 6.5 It is therefore my professional opinion that the visual openness of the appeal site is not a key characteristic or of notable significance. It is a limited area of openness that is locally contained by features of local landcover. These features (such as hedgerows and buildings) prevent longer views into the wider landscape. As such there is no sense of a wider open landscape beyond the hedgerows and buildings seen in views immediate to the site. The introduction of the appeal proposals will make virtually no difference to the extent or distance of existing views already experienced so will have a negligible effect on the openness of the landscape and the sense of permanence of that openness.

- 6.6 The low visual prominence of the appeal site is a result of the embedded mitigation incorporated into the siting and layout design of the appeal proposals, to limit changes to views and change to landscape character including perceivable change to the openness of the landscape.
- 6.7 A recent appeal decision also considered openness of Green Belt and landscape harm in the immediate landscape to the east at Crays Hall Farm. Appeal APP/V1505/W/23/3318171 Land at Crays Hill Farm, Church Lane, Crays Hill CM11 2UN considered the effect of a new solar farm and associated infrastructure on the openness of the Metropolitan Green Belt and the effect on landscape character and visual amenity. The planning application was refused on openness of Green Belt and had a separate reason for refusal for harm to landscape character and visual amenity.
- 6.8 The Inspector identified that *'The introduction of the proposed solar panels would detract from the openness of a significant part of the central part of the valley and would be seen alongside existing panels comprising the extended Outwood solar farm'*. The Inspector also identified that there would be a locally moderate adverse effect on landscape character. The area was identified to be popular with local residents, horse riders, walkers and cyclists and that a named public right of way the *'Ramsden Crays Circular Walk'* would be the most seriously affected by the development proposals. The Inspector did not disagree with the Council's opinion of landscape harm and the significance of that harm but accepted that the harm should be taken forward to consider in the final balance. The Inspector identified that the proposals would result in a moderate to major adverse visual harm reducing to moderate adverse over time. He noted that *'However, none of the PROWs would be affected for a significant distance except for the Circular Walk'*.
- 6.9 The Inspector drew the conclusion that *'The potential energy generation together with the limited degree of harm to landscape character and visual amenity along comprise the very special circumstances that outweigh the harm by reason of inappropriateness...'* and allowed the appeal. The proposed BESS is not the same as a solar farm development as it is of a much smaller scale and does not generate electricity itself. However, it's function to store and release electricity back into the grid when required, makes it a critical part of a stable

and reliable supply infrastructure. I therefore see considerable similarities between the two developments located in close proximity to each other.

- 6.10 The application for the solar farm was different from that of a BESS but there are a number of commonalities which I consider relevant to this appeal. The solar farm consisted of components which the Inspector referred to as industrial, metallic, recognising the intrusiveness of associated structures such as CCTV poles, transformers and security fencing which would '*contrast starkly with the historic predominately agricultural landscape*'. This could be described of the BESS structures but these are robustly contained and visually associated with the existing structures (and storage containers) at Whites Farm.
- 6.11 Although landscape and visual harm has been identified by the Appellant in their LVIA for the proposed BESS, the Council are generally in agreement and accept that both landscape and visual harm would be limited and localised. The public right of way which passes the proposed BESS site is not a named trail like the Circular Walk identified at the solar farm. The proposed BESS has no landscape or visual reason for refusal unlike the solar farm. The Whites Farm BESS proposals, overall have a much lighter landscape and visual impact which I assess would also include impact on the openness of the landscape.

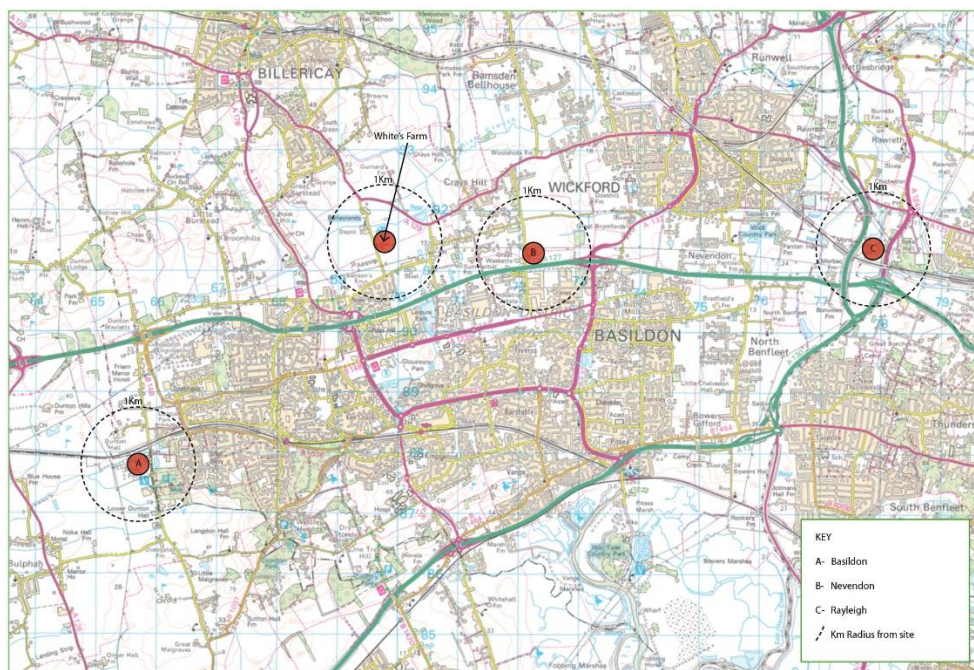
## **7 LANDSCAPE CHARACTER AND ALTERNATIVE SITES**

- 7.1 Although not considered as part of the Appellant's LVIA, an appraisal of the landscape sensitivity of a number of other potential sites which might provide the opportunity for grid connection and identified by the Local Planning Authority as alternative sites. The landscape within 1km of the following substations was considered during a site survey undertaken by Chartered Landscape Architect in September 2023:

- Basildon
  
- Nevendon
  
- Rayleigh



- 7.2 There were a number of common threads to general landscape characteristics arising from the land being agricultural but seen from the edge of the wider urban area. Power lines, pylons and built form are common throughout but hedgerows and trees bring localised visual containment. All of the areas appraised fall with the Metropolitan Green Belt.
- 7.3 The location of these substations and the 1km radius of surrounding landscape is illustrated below.
- 7.4 Figure 2 Location of alternative connection points.



### Basildon Substation

- 7.5 The landscape in which Basildon substation is located lies just to the west of the urban area of Basildon on land that rises towards Dunton Hall. Of the three alternative locations the Basildon landscape had more of an elevated character due to its topography. This appeared to give greater potential visual sensitivity to the landscape generally. Pylons and overhead power lines were abundant in this visually more open landscape. Hedges and belts of trees

create local containment and introduced a sense of wilderness away from highways and energy installations (solar farm and substation). The Essex Wildlife Trust Langdon Nature Reserve Centre lies south east of the solar farm and substation. This is a well-used visitor centre which I consider sensitive to local development due to its strong association with local wildlife and as a district visitor attraction specifically associated with landscape and its habitats.

- 7.6 West of the substation and the urban edge generally is the wider agricultural landscape with an irregular field pattern comprising of well defined hedgerows which have capacity to visually contain the landscape at local level where not influenced by rising topography.
- 7.7 Overall, the landscape around the Basildon substation was appraised to have a greater sense of openness due to more pronounced local topography. The Langdon Centre Wildlife Reserve was also assessed to be sensitive to changes in landscape character which inform its setting although it is unlikely that significant views of any new development would be experienced from the centre. When compared with the Whites Farm appeal site, it is assessed that the Basildon site has slightly greater landscape and visual sensitivity.

#### Nevendon Substation

- 7.8 The Nevendon site lies within a local landscape which is quite contained by hedgerows and hedgerow trees and small woodlands. This green infrastructure creates a stronger sense of undisturbed agricultural landscape as built form and highway corridors are predominately screened. There is no sense of general wider openness due to the screening of green infrastructure further exacerbated by the strong vegetation containment found along local lanes and roads.
- 7.9 The strong containment of the landscape by local green infrastructure will limit visual sensitivity but the stronger sense of rural and unspoilt agricultural character has greater sensitivity to change than the Whites Farm site.

#### Rayleigh Substation

- 7.10 The Rayleigh substation site lies within a disturbed landscape where communication corridors cut through the landscape creating strong compartments. The wider landscape is considerably more developed although field hedgerows, tree planting along communication corridors and local woodland bring potential for strong visual containment. It is appraised that the landscape within the vicinity of the Rayleigh Sub Station has lower visual sensitivity and landscape sensitivity than Whites Farm due to the extent of local development and communication corridors. However, it is assessed that the contribution that the landscape makes to the purposes of Green Belt (preventing sprawl, encroach and coalescence of settlement) is more significant than the landscape at Whites Farm due to the extent of communication corridor infrastructure and built form within the wider landscape.
- 7.11 Overall, there are similarities of character of the wider landscape in which the three substations are located. All have a mix of rural and urban characteristics that make them slightly disturbed and active landscapes which benefit from local screening by established vegetation. This screening can limit long views so giving a sense of local containment to the landscape and reduced sense of openness. All of these landscapes fall with the Green Belt but each will make a slightly different contribution to the purposes of Green Belt.
- 7.12 Basildon substation is located adjoining Green Belt study area 65. The land in which the substation is located within is not included in the 2017 study. Area 65 was assessed to contribute as follows:
- a) to check the unrestricted sprawl of large built up areas; **[Contributes]**
  - b) to prevent neighbouring towns merging into one another; **[Partly contributes]**
  - c) to assist in safeguarding the countryside from encroachment; **[Contributes]**
  - d) to preserve the setting and special character of historic towns; and **[Contributes]**
- 7.13 Nevendon substation is located within Green Belt study area 35. This area was assessed to contribute as follows:

- a) to check the unrestricted sprawl of large built up areas; [**Partly contributes**]
- b) to prevent neighbouring towns merging into one another; [**Contributes**]
- c) to assist in safeguarding the countryside from encroachment; [**Contributes**]
- d) to preserve the setting and special character of historic towns; and [**Does not contribute**]

7.14 Rayleigh substation is located just outside of Green Belt study Area 48. This area was assessed to contribute as follows:

- a) to check the unrestricted sprawl of large built-up areas; [**Parcel not relevant to this purpose**]
- b) to prevent neighbouring towns merging into one another; [**Does not contribute**]
- c) to assist in safeguarding the countryside from encroachment; [**Contributes**]
- d) to preserve the setting and special character of historic towns; and [**Does not contribute**]

7.15 Overall, the Basildon and Nevendon substation areas make a greater contribution to the purposes of Green Belt than Area 24 (Whites Farm). The Rayleigh substation was identified to make a greater contribution to the purposes of Green Belt than Area 24 (Whites Farm) in terms of preventing encroachment. The Rayleigh substation site was assessed not to contribute to parts a) sprawl, b) merging towns and d) setting of historic towns unlike the Whites Farm area 24 which was assessed to partly contribute to part a) sprawl and b) merging of towns. However, the Whites Farm proposal was refused planning permission due to conflict with part c) due to its partial contribution to preventing encroachment into the Green Belt. Paragraphs 5.17 to 5.20 of the Council's report to committee, sets out why the appeal site does not contribute to parts, a), b) or d) of the purposes of Green Belt. The Rayleigh substation site lies within a landscape assessed to make a 'contribution' to preventing encroachment into Green Belt. As such, with regard to conflict with part c) encroachment, the Rayleigh site would also conflict but to a greater extent.

7.16 I therefore conclude that with regard to harm to Green Belt, the development of the appeal site would result in the less harm to the purposes of Green Belt than the other alternative sites.

## **8 CONCLUSIONS**

8.1 The appeal proposals have been assessed to result in only limited landscape and visual harm.

8.2 The appeal site falls within study area 24 of the Basildon Borough Council Green Belt Review (2017) which identifies the land to make only a limited contribution to the purposes of Green Belt.

8.3 The appeal proposals will result in a spatial loss of openness through the implementation of the development proposals on undeveloped land. However, the extent to which this loss of openness will be perceived will be limited due to the close association of the appeal site with the existing farm structures and wider visual containment by field hedges.

8.4 Views of the appeal site are limited to the immediate area adjacent including a single public right of way that passes the northern boundary of the appeal site. New native hedge planting will provide mitigation to views as the hedge establishes. The appeal proposals will be seen in the context of the existing farm structures which are already experienced in these local views. This limits the extent to which the development proposals will be seen to reduce or change the sense of openness presently experienced in the immediate landscape to the appeal site.

8.5 Overall, the appeal proposals will have limited landscape and visual effects and as a result will not significantly change the perception of the openness of the landscape in which views of the site are obtained. The appeal proposals will conflict with part c of the purposes of Green Belt (encroachment) but this conflict will be limited in scale and perception due to the inherent mitigation of the appeal site and the potential to achieve further mitigation through the establishment of the native hedge planting.

- 8.6 My assessment of the alternative sites identified by the LPA at Basildon, Nevendon and Rayleigh, has confirmed that the landscape character is similar throughout. However, local differences in visual openness and potential landscape sensitivity are constraints to alternative areas that have been found not to be constraints of the current appeal site. All potential alternative areas assessed are located within the Metropolitan Green Belt and all make an equal or greater contribution to the purposes of Green Belt.
- 8.7 For the weight that should be given in the final planning balance to the benefit of the appeal proposals, landscape and visual harm and conflict with the purposes of Green Belt, I defer to Mr Barton and his planning statement. However, the identified limited harm to landscape character and appearance of the landscape underpins the capacity of the appeal site to accommodate the development proposals. Alternative areas around potential connection points to the grid do not appear to offer greater capacity in landscape and visual terms, to accommodate development. With regard to potential effects on the purposes of Green Belt, these alternative sites may increase potential for conflict.
- 8.8 I therefore consider the appeal proposals to have been reliably tested and found to be appropriate in terms of limited landscape and visual impacts including impacts on the visual openness of the Green Belt. Furthermore, other alternative locations do not appear to offer a better alternative in terms of Green Belt impact.

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