

PINS REF: APP/B3030/W/21/3279533

RE: LAND NORTH OF HALLOUGHTON, SOUTHWELL

CLOSING SUBMISSIONS
ON BEHALF OF THE COUNCIL

*References to core documents are in the form of [REF]
Proofs of Evidence are referenced as "POE"*

I. Introduction

1. That the proposed development would make a significant positive contribution towards achieving the Council's commitment to tackling the causes and impacts of climate change is not in dispute. It is a factor which the Council had at the forefront of its mind when considering this application, as it does in relation to all applications for renewable and low carbon energy schemes.
2. The climate emergency cannot however obscure the significant long-term adverse impacts of the development on landscape character and visual amenity (including impacts on well used public rights of way) as well as the setting of designated heritage assets including Halloughton Conservation Area, the Manor Farm House (Grade II*) and other Grade II listed assets.
3. The Council's case, in summary, is that the proposed development would cause harm of a weight and magnitude that ultimately outweighs the benefits of the scheme, including the benefits associated with renewable energy generation. The inspector will accordingly be invited to dismiss the appeal.

II. Landscape and Visual Impact

Landscape Impacts

4. The Council's case is that the proposals will result in a major adverse scale of effect on the landscape character of the appeal site, comprising approximately 106 ha of land and 12 rural, open fields that are predominantly in agricultural use. That this major adverse impact would be felt within the site for the 40-year lifetime of the

scheme was understood to be the conclusion of both parties – until receipt of the Environmental Statement (“ES”) and Mr Cook’s rebuttal PoE.

5. Prior to the submission of the ES, all the evidence before the inquiry confirmed that within the appeal site, there would be a major adverse impact on local landscape character by reference to Policy Zones 37, 38 and 39 of the Newark and Sherwood Landscape Character Assessment (“LCA”). This was confirmed in Ms Gillespie’s POE,¹ Mr Cook’s POE² as well as the original Pegasus LVIA’s.³
6. The Council submits that the extremely late change in position from the Appellant in respect of the harm to landscape character – in seeking to reduce this from the 40-year lifetime of the scheme to merely one year of the scheme – is not credible. In particular:

(1) The reason for the change is because in the ES,⁴ Mr Cook downgrades the magnitude of change from ‘high’ to ‘medium’ at year 10 for the effects within the site for each of the Policy Zones. This change does not bear analysis.

(a) All the aspects that engaged the Policy Zones at construction and year 1 would remain the same throughout the lifetime of the scheme. While Mr Cook accepted this, he caveated that the mitigation planting in terms of hedgerows and trees would grow over the 10 years, thereby reducing magnitude of change to ‘medium’. This is not however a logical step if one follows GLVIA⁵ or indeed the ES’ own methodology⁶ in assessing magnitude of change. As is clear from the ES methodology (derived from GLVIA) the focus is on the introduction of new elements – all of which are already accounted for in the construction/year 1 analysis. The re-

¹ Para.3.1.5, cross referring to section 3 of Ms Jones POE.

² Paras.5.43; 5.49; 5.53.

³ Para.3.13 of LVIA Addendum [A13B].

⁴ Appendix 2.2: Landscape Effects Summary Table

⁵ P.71 [F1].

⁶ ES: LVIA Methodology Table 6.

counting of some elements – owing to their maturation – is not in keeping with Pegasus’ own methodology.

(b) It is also entirely inconsistent with how the same methodology has been applied in respect of landscape elements,⁷ where the focus is on the loss or gain of an element. As is evident from the ES, notwithstanding the same maturation argument, the magnitude of change in respect of both the trees and hedgerows is assessed as ‘medium’ at construction, year 1 and year 10. The “maturation” argument is not relied upon to change the magnitude of change at year 10 – nor could it if the methodology is properly applied.

(2) Moreover, the fact that all experts, including Mr Cook, were in agreement as to the 40-year effects on landscape character until the ES was produced lends further support to the Council’s position. Mr Cook sought to clarify in cross-examination that his POE only dealt with effects at year 1, but this is not remotely apparent from, let alone explicitly stated in, his POE. His single reference (in reference to landscape character) to “medium and longer term” harm is in para.7.11 of his POE. This is clearly stated in a different context when discussing landscape character of the area generally and how that relates to the local plan policies. It does not address the issue.

7. For these reasons, the Council’s evidence should be preferred on landscape character. In essence, the appeal scheme, covering over 100 hectares of land with solar panels on the majority of its 12 fields, will introduce massed modern elements and infrastructure that will physically and fundamentally alter the predominant land use and the longstanding rural and agricultural character of this area.

8. In respect of impacts on individual landscape elements, there is considerable common ground between the parties:⁸

⁷ ES: LVIA Methodology Table 5.

⁸ Set out in the Comparison Schedule.

(1) There will be a moderate adverse scale of effect on land use and land cover for the lifetime of the scheme. While Mr Cook provided further commentary on the benefits of the conversion of the fields to pasture land, he accepted in cross-examination that this was simply narrative and did not alter his overall conclusion on the impacts on land use and cover.

(2) There will be negligible adverse impact on topography and no effects on public rights of way.

9. The difference lies in respect of the following elements:

(1) Trees. The Council and Pegasus' original LVIA⁹ both assess the tree planting to be minor to moderate beneficial. The only change in the tree proposals since the original LVIA is the change from 76 to 82 trees. Mr Cook's different assessment is reached owing to his judgment of a 'medium' magnitude of change. However, this is not borne out on his own evidence. He accepted in cross-examination that the tree planting proposed was "a very small proportion of the existing tree resource" – "quantitatively". On his own methodology, therefore, this falls within a 'low' magnitude of change because it is simply a "minor gain" to part of a landscape element.¹⁰

(2) Hedgerows. The Council and Pegasus' original LVIA¹¹ both assess the hedgerow planting to be minor to moderate beneficial. Again, Mr Cook's assessment is considered to be overstated in this regard.

(3) Watercourses. This was not considered to be a characteristic landscape element in Pegasus' original LVIA. Mr Cook's assessment of the existing element (the Westhorpe Dumble stream) as 'high' value is therefore considered to be an overstatement.¹² Similarly, the proposals for swales and attenuation bunds, which are associated with a drainage system, are

⁹ LVIA para 7.7 [A13A].

¹⁰ See ES: LVIA Methodology Table 5.

¹¹ LVIA para 7.7 [A13A].

¹² By reference to his own methodology, see ES: LVIA Methodology Table 2.

not considered to be characteristic and Mr Cook's assessment of a 'low' magnitude of change is also overstated.¹³

10. When the effects on individual landscape elements are considered in the round, the Council maintains that the overall scale of effect on landscape character of the site is major adverse.

Visual Impacts

11. As for visual impacts, there is common ground that the proposals will cause some adverse visual impacts, although the Council identifies greater visual impacts than those accepted by the Appellant, including in respect of well-used public rights of way.
12. Ms Gillespie identifies significant impacts at viewpoints 2 (construction); 4 (construction, year 1); 14 (construction, year 1) and 15 (construction, year 1, year 10). Mr Cook is in agreement in relation to viewpoints 4 and 15 in respect of construction and year 1. For the remainder of the viewpoints where the Council finds a significant impact, he finds the impact to be of a moderate adverse scale of effect. Ultimately, it will be for the Inspector to judge these impacts from the site visit.
13. It is accepted that there is only a small number of individual viewpoints where Ms Gillespie finds a significant impact. However, her clear evidence in cross-examination was that the experience of the visual receptor, i.e. the recreational user of the public rights of way surrounding the appeal site, was "not merely [a] sum of the 16 viewpoints", it was "also to do with the journey between those viewpoints". As a matter of approach, Mr Cook agreed that the viewpoints in and of themselves did not capture the dynamic experience of the recreational users, and that the Inspector is entitled to take into account the impact of any sequential views.

¹³ By reference to his own methodology, see ES: LVIA Methodology Table 5.

14. As noted in Ms Gillespie’s POE¹⁴ and explained further in evidence in chief, owing to the sequential impact of views as users walk around the well-used public rights of way, an “impression will be created of [a] large scale and constructed development within the landscape”. This would be particularly felt as users walk along public rights of way 43 (taking in viewpoints 13, 14, 15, 16) and 73 (taking in viewpoints 1, 2, 3, 4, 5).
15. Moreover, while it is accepted that mitigation planting, once matured, will effectively screen some views of the development, the proposed planting itself will bring about a significant change in terms of views of the wider landscape – by closing down middle-distance views that are currently enjoyed along public rights of way and thereby changing the spatial perception of its users (particularly at viewpoints 4, 10, 15).¹⁵

Overall Assessment

16. It is agreed between the parties that a 40-year period is long-term,¹⁶ with GLVIA identifying an approximate range of ten to twenty-five years as long-term.¹⁷
17. Ultimately, as Ms Gillespie identified, there is a conflict between the potential visual impact of the scheme if left unmitigated versus the impacts on landscape character brought on by the wholesale increase of vegetative boundaries and the closing down of mid-distance views.¹⁸ Either approach has a significant negative impact in landscape and visual terms.

III. Impact on Heritage Assets

18. The Council submits that the development will result in ‘less than substantial’ harm:

- (1) At the higher end of the scale to –
(a) Halloughton Conservation Area (“HCA”);

¹⁴ Para.5.4.1.

¹⁵ Ms Gillespie POE para.7.5.11.

¹⁶ Accepted by Mr Cook in cross-examination; see also Mr Cook POE 4.16.

¹⁷ Para.5.51 [F1].

¹⁸ Ms Gillespie POE para 7.5.12-13.

- (b) Halloughton Manor Farm House (Grade II*);
- (c) Church of St James (Grade II); and
- (d) Barn at Bridle Road Farm (Grade II).

(2) At the lower end of the scale of to –

- (a) Pigeoncote, Granary and Stable Block at Manor Farm (Grade II);
- (b) Barn at Manor Farm (Grade II);
- (c) Brackenhurst Hall and associated structures (Grade II); and
- (d) South Hill House (Grade II).

19. The parties are significantly apart in terms of their cases on heritage impacts, with the Appellant only identifying less than substantial harm, at the lower end of the scale, to HCA, and no harm whatsoever to any of the listed buildings.

20. Prior to turning to the substantive case, it is important to address the criticism of Mr Partington’s approach in terms of methodology. He was criticised for adopting the CHIA guidelines [G5] in his POE, rather than the approach set out in Historic England’s GPA 3 [G3]. It is evident from Mr Partington’s POE, however, that he does also use GPA 3 in his analysis, for e.g. in assessing how setting contributes to the significance of an asset (required by GPA 3, albeit not a requirement of CHIA).¹⁹ Accordingly, the criticism of his use of the CHIA guidelines goes nowhere; it certainly does not undermine the robustness of the conclusions that he reaches.

HCA and its listed buildings

21. As far as HCA and its five listed buildings are concerned, the main point of difference between the parties is whether the Halloughton Prebend contributes to the significance and/or setting of HCA and its listed buildings.²⁰ The difference of professional opinion on this issue, for the most part, leads the experts to reach significantly different conclusions on the likely heritage impacts of the development.

¹⁹ See for e.g.: paras.4.2.43, 4.3.36, 4.3.83-4.3.86, 4.3.117, 4.4.31,

²⁰ As also accepted by Ms Garcia in cross-examination.

22. As explained by Mr Partington, a prebend was a benefice from the Church to a canon (or occasionally a lay person) and which typically took the form of property and land, which was then exploited for the benefit of the prebendary. In the present case, it is clear from the documentary evidence that the Halloughton Prebend was established in 1162 and that the endowment likely included most of the land and buildings within the parish, and in particular the southern half of the appeal site.

Halloughton Prebend

23. It is common ground that:

- (1) The Prebend was centred on the Church of St James (“Church”) and Halloughton Manor Farm House (“Manor”),²¹ both of which were originally constructed in the 13th century. The Manor was the prebendal house.
- (2) The core part of the Prebend would have been its agricultural estate, owing to the income that the Prebend would have derived from the Tithes.²² Ms Garcia herself noted that the income from the Tithes would most likely have funded the construction and maintenance of the Church.²³
- (3) Throughout much of its known history the entire prebendal estate was leased by the Prebendary to a single individual who in turn sub-leased parts of the estate to a number of tenant farmers. As Mr Partington noted, it was entirely common and usual for a prebendal estate to be leased and administered in this way, as opposed to the priest managing the agricultural estate himself.
- (4) From the late 18th century, a series of working farm buildings were constructed in Halloughton, which included Bridle Road Farm Barn (“Barn”) and the two designated assets associated with the Manor.

²¹ See for e.g. Ms Garcia’s POE para.12.6.

²² Accepted by Ms Garcia in cross-examination.

²³ Ms Garcia POE para.7.16.

(5) The prebendal estate was dissolved shortly after 1840 with ownership defaulting back to the Diocese of Southwell. At this point the estate was leased intact to the Sutton family.

(6) The freehold estate was sold off by the Church Commissioners in 1952.

(7) Since the dissolution of the Prebend, there has been little infill development in Halloughton and its general layout has not changed.²⁴

Contribution of the Prebend to significance

24. The Council's case is that the nature, extent and continuity of the Prebend goes to the heart of understanding the significance of HCA and its five listed buildings. The Prebend contributes to a large extent to the heritage interest, particularly the historical value, of these assets. In turn, the agricultural land within the parish, including the southern part of the appeal site, better reveals the nature of this historic value given the intrinsic and longstanding functional connection between these assets and the village's rural fields. Mr Partington drew particular attention to the following²⁵:

(1) As for HCA, the village still appears as an agricultural estate village, and one that was dominated by a single landowner, with the Manor and the Church facing each other and guarding the main entrance into the HCA. The prebendal associations are strong and legible, including in the village's traditional building stock, most of which is associated with agriculture and many of which were built around the same period and in the same style. The experience of the village in its wider rural setting is therefore fundamental to appreciating the core architectural and historical narratives that underpin the character and appearance of HCA.

(2) The architectural fabric of the Manor, as the prebendal house, charts the development of the village over eight centuries and has notable historic interest as the centre of local power and administration during the course

²⁴ Ms Garcia comments on this by reference to Sanderson's map of 1835: POE para.12.8.

²⁵ Both in his POE and evidence in chief.

of the Prebend. The surrounding farmland in the parish remains strongly reflective of medieval land management regimes associated with the Manor and the village; and this rural setting enables appreciation of the influence of the Manor over the village and parish since the 13th century. The construction of the barn, pigeoncote, granary and stables are illustrative of improving techniques of the Agricultural Revolution – and were also accepted to run “parallel” to the course of the Prebend.²⁶ (It is accepted that the Council’s case on these associated listed buildings will stand or fall with its case on the Manor.)

(3) The Church, like the Manor, serves as a gateway building into Halloughton. There is a strong sense of historical integrity in respect of both the village and its rural setting, which helps appreciate the Church’s role in the prebendal estate, sitting directly opposite the prebendal house.

(4) The Barn is a threshing barn which lies at the centre of Halloughton, the character of which continues to reflect the dominance of the manorial agricultural estate and within which the Barn constitutes a key working element. The Barn would have been associated with improvements in the village’s agricultural economy, the profits of which would have continued to be seen by the Prebend until its dissolution. The surrounding rural land, strongly reflective of medieval land management regimes, helps understand the core aspects of the Barn’s significance.

25. Ms Garcia’s evidence on the Prebend was that it does not contribute to the significance of these assets today. This appeared to be the case for three reasons, which are addressed in turn:

(1) The historical connection with the Prebend was severed when it was dissolved (POE 7.16). This reason in and of itself does not withstand scrutiny, because by that logic, there could never be any historical value where a historical connection does not persist in modern day. That is

²⁶ Accepted by Ms Garcia in cross-examination.

plainly wrong as a matter of how historical associations are understood in terms of contributing to heritage value.

(2) The Prebend is “not tangible” and there is “nothing on the ground”, with the exception of the Manor as a prebendal house (evidence in chief). That is wrong as a matter of fact, given the key prebendal buildings and the layout of the village have remain largely unaltered since the dissolution of the Prebend on Ms Garcia’s own evidence.

(3) The Prebend could only contribute to the significance of the assets if lay people had “pre-knowledge”, and that one “can’t experience the asset without that knowledge” (evidence in chief). Again, this is not a general principle and, in any event, the historical connection remains legible in the architecture and layout of the village as well as the surrounding agricultural farms.

26. Ms Garcia’s further evidence was that the only exception to the above was the Manor. She stated in evidence in chief that the Prebend “contributes to the significance of Manor Farm House and its understanding”. This is not disputed, but it does beg the question as to why a different approach is adopted in respect of, for example, the Church – which was the religious seat of the Prebendary; built as the centre of worship of the prebendal estate; constructed at the same time as the Manor; and funded through the tithes and rents of tenant farmers who worked the agricultural estate.

27. For the reasons given, Ms Garcia’s approach should not be followed and Mr Partington’s evidence should be preferred in respect of the contribution made by the enduring historical interest of the Prebend to the significance of the designated heritage assets. To the extent that the Inspector accepts that the designated assets derive their value and interest, at least in part, from the Halloughton Prebend, then Ms Garcia’s judgments will not assist because they only selectively account for such historical interest.

Contribution of the appeal site to significance

28. As for the appeal site itself, Ms Garcia recognised that all the land was under the “broader umbrella of the prebendary”²⁷ and accepted that during the 700-year lifetime of the prebendary there was “obviously a connection” (cross-examination) between the prebendal estate and this farmland. However, she did not consider that the appeal site contributes to the appreciation of the prebendal history of the heritage assets because it was sub-leased to various tenant farmers throughout its history. Given that such sub-leasing was typical of prebendal estates, and that the tithes from these wider agricultural farms were integral to the prebendal income, it is not understood how the very fact of sub-leasing could possibly detract from the prebendal estate as a whole.

29. Moreover, in the instances that Ms Garcia does consider surrounding fields to form part of the rural setting of the heritage assets, she does not consider that this extends to the appeal site. She accepted in response to a question from the Inspector that she had defined this setting “very narrowly”²⁸ – and the Council submits unduly so. By way of example²⁹:

(1) In respect of HCA, all four elements of settings are explicitly defined by visual relationships [POE 12.30], notwithstanding that setting is not exclusively about a visual connection.³⁰ Of particular importance is the fact that the three fields immediately north of the village are regarded as contributing to significance, but the fields of the appeal site just north of the first three fields are excluded. There is however no justification for such a narrow approach given that: (1) there was no such historical demarcation between the prebendal village and its agricultural land; and (2) the fields of the appeal site can also be glimpsed from the very same churchyard.³¹

²⁷ Rebuttal para.3.4

²⁸ This was in specific reference to the “rural context” at Ms Garcia’s POE para 8.21.

²⁹ In addition to the two assets discussed in the main text, the northern fields adjacent to the Church are also acknowledged as forming part of its setting, but the fields of the appeal site immediately beyond are excluded: see POE 7.14.

³⁰ Common ground, as set out in case law, PPG and Historic England’s GPA 3.

³¹ As noted by Mr Partington in evidence in chief and as will have been apparent on site visit.

(2) In respect of the Barn, only the immediate agricultural land to the south of the asset is considered to form part of the setting on the basis that it is still worked by the asset [POE 11.9]. This narrow view cannot be sustained when accounting for: (1) the role of the Barn at the centre of the Prebend at a time of heightened agricultural productivity; and (2) the co-visibility of the asset with the appeal site (from the southern footpath).

30. For the reasons given by Mr Partington – and especially in respect of those assets which Ms Garcia herself accepts as having a rural setting – it is submitted that the appeal site also clearly contributes to that rural context, particularly in light of the historical prebendal association within the parish.

Impact of the appeal site

31. On Mr Partington’s case, which should be preferred for the reasons already given, the proposed development will impact on the setting of these designated heritage assets. The fundamental change in character, land use and land cover³² of the assets’ rural settings will have a detrimental impact on the ability to understand longstanding historic relationships. The southern half of the appeal site has thus far retained a remarkable degree of integrity both in terms of physical character and its enduring ability to illustrate historical connections – both of which will be lost by the proposed development. In this regard, it is notable that Ms Garcia described the current view of the pylon outside HCA to be “very visually impactful”.³³ The scale of the proposed development will surely have a similarly harmful impact.

32. Additionally, on the Council’s case, the remaining views to and from the appeal site – as identified by Ms Garcia³⁴ – are key to understanding the prebendal connection between the designated heritage assets and the agricultural land. It is accepted by the Appellant that mitigation planting will in many cases reduce or close off these views. As noted by Historic England’s GPA 3 (para.9), negative

³² All factors which can be relevant considerations as per Historic England’s GPA 3 “Step 3 Checklist” (p.13).

³³ Examination in chief.

³⁴ POE 8.18, 12.36, 12.37.

change can include severing the last link between an asset and its original setting, which the Council submits will be the case here.

Brackenhurst Complex

33. It is common ground that the northern setting of the Brackenhurst Complex, in particular the Hall, is severely compromised by recent university development. It is therefore the case that the southern settings will play a heightened role in contributing to its significance.³⁵

34. The key issue between the parties is whether or not the appeal site forms part of the assets' setting. The Council's case is that Brackenhurst Hall is a country house, located in the countryside, and that the wider countryside necessarily forms part of its setting. It is these very surroundings – which include the appeal site – within which the asset can be best experienced.³⁶ The Appellant disagrees, notwithstanding that the country house is erected in an elevated location with the bay window featuring on the Hall's southern façade.³⁷ The views to and from the appeal site (as accepted by Ms Garcia)³⁸ further support the Council's case on the contribution of the appeal site to this asset's setting.

35. As per Mr Partington's evidence, the development will alter the setting of the Complex, particularly the Hall, to the south and thereby weaken the ability to appreciate its heritage interest.

South Hill House

36. Although described as a farmhouse in its statutory list description, Mr Partington explains why he regards this asset as a modest country residence with associated outbuilding,³⁹ which sits towards the top of a broad summit of land overlooking rural land (and Halloughton) to the southwest.⁴⁰ He considers the appeal site and the broader rural land to form part of its setting, the character and rural quality of

³⁵ Ms Garcia accepted in cross-examination that this would be a factor to be considered.

³⁶ Mr Partington POE 4.4.31.

³⁷ Mr Partington in cross-examination.

³⁸ Ms Garcia POE 13.10.

³⁹ Mr Partington POE 4.4.52.

⁴⁰ Mr Partington POE 4.4.57.

which will be altered by the development – thereby affecting the experience of its heritage interest.⁴¹

IV. Planning Policies and Balance

37. S.38(6) of the Planning and Compulsory Purchase Act 2004 sets out a plan-led approach to development, requiring proposals to accord with the adopted development plan unless material considerations indicate otherwise.

Development Plan

38. The parties are in broad agreement in so far as the interpretation of policies is concerned. It is of course trite law that conflict with one or more policy does not constitute conflict with the development plan as a whole. Similarly, conflict with one part of one policy does not equate to conflict with that policy – rather, as Ms Whitfield noted, one must at all times be guided by both the text as well as the objectives of the relevant policy.

39. As a result of the harms identified above, and for the very clear and cogent reasons given by Ms Whitfield, the scheme fails to comply with the following development plan policies: CP9, 10, 13 and 14 of the Amended Core Strategy; DM4, 5, 9 and 12 of the Allocations Development Management DPD; and E6 of the Southwell Neighbourhood Plan. When considered in the round, it is the Council's case that the proposals do not comply with the development plan as a whole and the appeal should therefore be refused unless material considerations indicate otherwise.

40. Mr Burrell's conclusions on the proposal's compliance with individual development plan policies is markedly different. They are necessarily premised on the findings of Mr Cook and Ms Garcia. They do not therefore assist to the extent that the Inspector prefers the evidence of Ms Gillespie and/or Mr Partington. However, it is noted that even when applying Mr Cook's evidence, Mr Burrell fails to explicitly deal with a key conclusion from Mr Cook's POE, i.e.: the major adverse impact on LCA Policy Zones 37, 38 and 39. This omission is particularly egregious

⁴¹ Mr Partington POE 4.4.75-4.4.78.

because the LCA is an SPD and all proposals are required to be assessed against the LCA by virtue of CP13, DM5 and DM4.

Planning (Listed Buildings and Conservation Areas) Act 1990

41. On the Council's case, and in light of the heritage harms identified, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged. As Ms Whitfield explained, the Council does not consider the engagement of s.72 to be determinative in this case.
42. As for s.66 it is common ground that, if engaged, it requires the Inspector to afford considerable importance and weight to the desirability of preserving the setting of the listed buildings identified above (see for e.g. *Catesby Estates Ltd v Steer* [2018] EWCA Civ 1697 at para.30 [H1]).
43. Mr Burrell accepted in cross-examination that given his reliance on Ms Garcia's evidence, he has not applied s.66 and that is not an exercise he has undertaken in reaching his overall planning balance.

Material Considerations

44. There are a number of material considerations addressed by both planning witnesses. There is broad agreement in respect of a number of these matters, save as follows:
 - (1) The Council's climate emergency declaration. As Ms Whitfield explained, this declaration, and the associated Climate Emergency Strategy, relates to the actions the Council is taking to reduce its own emissions as an organisation. It does not set out the local planning authority's approach to assessing planning applications for renewable energy schemes, which is clearly covered by the development plan.
 - (2) Time limited nature. Ms Whitfield acknowledged that this was an important consideration but ultimately gave it neutral weight in the planning balance, bearing in mind that 40-years is long term and is longer

than a generation.⁴² As is common ground, draft National Policy Statement EN-3 [D4B] states that the time limit imposed on a solar energy scheme is likely to be an important consideration when assessing its impacts, and that such judgment should include consideration of the period of time sought.⁴³ Draft EN-3 considers a time-limit of 25-years to be typical for such schemes, which is a relevant benchmark against which to assess the present 40-year limit.⁴⁴

(3) Cleve Hill decision. It is acknowledged that this is a material consideration. To the extent that Mr Burrell places great weight on the adverse impacts that were deemed acceptable as part of that proposal, it is important to bear in mind that that scheme would have a total capacity of around 350MW,⁴⁵ approximately seven times the scale of this project. Mr Burrell did however agree that each case must in any event be decided on its own merits.⁴⁶

45. The benefits of the development are dealt with separately, below.

Planning Balance

46. In respect of the benefits of the scheme, the parties agree that:

- (1) Substantial positive weight should be given to the scheme's contribution to renewable energy generation.
- (2) Moderate positive weight should be given to landscape enhancements and flooding and drainage.

47. It is also agreed that neutral weight should be given to the use of agricultural land; residential amenity and noise; highways and transport; and public rights of way.

48. Areas of disagreement are as follows:

⁴² POE 3.42, and also restated in cross-examination.

⁴³ Para.2.49.13.

⁴⁴ Para.2.49.12.

⁴⁵ See para.1.3 of the Secretary of State's decision letter [H6B].

⁴⁶ In cross-examination.

(1) Ecological enhancements. Ms Whitfield attached moderate positive weight to this benefit, noting that they arise in large part from the mitigation planting required to make the proposals acceptable in visual terms and that they accord with local and national planning policies on biodiversity net gain (“BNG”). She accepted that the proposal would deliver over the 10% BNG required by the latest legislation, but she did not accept that it would amount to a substantial benefit in this case. Mr Burrell accepted in cross-examination that these benefits could also be achieved through land stewardship unconnected to the solar farm. He did caveat that it would need to be commercially viable and (in re-examination) that it would be very unlikely to come close to what was being proposed. In light of the revised BNG calculations using metric 3.0, Ms Whitfield attributes moderate-significant weight to this benefit, as explained in her addendum POE.

(2) Socio-economic benefits. Ms Whitfield attributed moderate positive weight to the benefit, noting that these benefits would be a consequence of any similar development. Mr Burrell attached moderate/substantial weight, and in that respect the parties are not in fact far apart.

49. In respect of the harms of the scheme, the Council attributes substantial negative weight to both the landscape and visual as well as heritage impacts identified, for the reasons given by Ms Whitfield.

50. Mr Burrell gives these factors moderate negative weight, which is contingent on Mr Cook and Ms Garcia’s evidence. He did accept in cross-examination that in terms of landscape harm, he has factored into account the benefits associated with landscape features,⁴⁷ notwithstanding that they are also counted towards the landscape enhancements (which he gave moderate positive weight). The Council submits that this amounts to an improper double counting of a benefit.

⁴⁷ POE 11.40.

V. Conclusion

51. When all of these matters are weighed in the planning balance, the identified benefits do not outweigh the adverse impacts of the scheme, nor do they overcome the conflict with the Development Plan and the statutory objective of preservation in respect of listed buildings.

52. Accordingly, the Council invites the Inspector to dismiss this appeal.

RUCHI PAREKH
CORNERSTONE BARRISTERS
13 JANUARY 2022