

**APPEAL BY JBM SOLAR PROJECTS 6 LTD**

**COTMOOR SOLAR FARM,  
LAND NORTH OF HALLOUGHTON, SOUTHWELL**

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**OPENING STATEMENT ON BEHALF OF THE APPELLANT**

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**Introduction and Issues**

1. The context for this proposal is the immediate and pressing need for the deployment of renewable energy generation in the UK. In May 2019, the UK Parliament declared an Environmental and Climate Change Emergency. Newark and Sherwood District Council, has done the same and in September 2020, published a Climate Emergency Strategy with a commitment to becoming a carbon neutral organization by 2035. The UK has a legally binding and ambitious target to reach “net zero” by 2050, and investment in renewable electricity generation on an unprecedented scale is a fundamental part of the UK’s strategy to meeting that target.
  
2. The proposals before this Inquiry offer an exciting opportunity to generate significant amounts of renewable energy sufficient to power 12,000 homes and bring about savings of carbon dioxide emissions during its operational period of around 20-21,000t per annum. Large scale benefits such as that can only be achieved through big schemes, and the proposal is large scale. It is in fact just short of the threshold for nationally significant infrastructure project. Given its size, the scheme would be expected to give rise to some significant effects, but this is a scheme where those effects are relatively limited, capable of being mitigated, and reversible.

3. The impacts identified as potentially significant for environmental impact assessment purposes by the Screening Direction issued by the Secretary of State<sup>1</sup> have been addressed through the production of an Environmental Statement notwithstanding the District Council's earlier negative screening opinion. The Environmental Statement has now been published for consultation, and assesses landscape and visual impacts, major accidents and disasters, and agricultural resources.
4. In summary, this is a scheme that can be sensitively delivered to provide significant and meaningful benefits over the lifetime of the development that significantly outweigh the adverse impacts identified. The scheme accords with the development plan read as a whole and represents sustainable development for the purpose of the National Planning Policy Framework ("NPPF") and benefits from the presumption set out at paragraph 158 NPPF since the impacts of the scheme are (or can be made) acceptable.
5. The Appellant has sought further revisions to the scheme through the appeal process; see CDA47. The Council agrees to the appeal proceeding on the basis of the revised plans which have already been consulted on, and which are subject to further consultation through the EIA process. The revisions reduce the impacts of the scheme further both in landscape and visual terms, and also in terms of the impact of the proposals in views to, from, and across the Conservation Area.
6. I turn to the likely main issues below following a summary of the Common Ground that has been reached between the parties.

### **Common Ground**

7. The main parties agree the following<sup>2</sup>:
  - (i) National Policy Statements EN-1 and EN-3 are material considerations in the determination of the appeal. So too are the draft National Policy Statements published in September 2021; §7

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<sup>1</sup> Appendix 1.2 of the ES

<sup>2</sup> References are to the main SOCG unless otherwise indicated.

- (ii) The site is located in the open countryside in planning terms, but both parties acknowledge that there is no land specifically allocated for the generation of renewable energy in the adopted Development Plan; §8.5-8.6
- (iii) It is agreed that solar development could be acceptable in principle in the open countryside, and that there is a strong policy presumption in favour of applications for renewable technologies that needs to be balanced against the site-specific impacts; §8.6
- (iv) There is no need for the applicant to demonstrate a need for renewable energy as set out in NPPF 158; §8.7, and unsurprisingly, it is agreed that the proposals would constitute a low carbon renewable energy source that would contribute towards meeting national renewable energy targets; §8.8.
- (v) It is not disputed that the proposals would provide approximately 49.9MW of electricity which is equivalent to the annual needs of approximately 12,000 UK homes. It is agreed that there is a substantial benefit of the scheme in terms of renewable energy and that significant weight should be attached to that benefit; §8.9-8.10.
- (vi) It is agreed that the proposal would not prejudice the use of Best and Most Versatile agricultural land, and that the appeal site would be subject to continued agricultural use during the operational period of the solar farm in the form of sheep grazing; see §8.14-8.16.
- (vii) There is no highways objection to the proposed access §8.21- §8.23, and the proposal would not give rise to a detrimental impact on highway safety.
- (viii) There is no objection based on flood risk subject to the imposition of suitable conditions, and the proposed development would not adversely impact on flooding or drainage; §8.30-8.33
- (ix) There are no objections based on archaeology, which can be dealt with further by condition §8.34-8.36
- (x) In respect of ecology, Natural England has not raised any objection, and neither has the Nottinghamshire Wildlife Trust. There will be no detrimental impact on wildlife and habitats – quite the opposite, the proposal will provide an overall Biodiversity Net Gain of 36.78% in habitat units (23.68% net gain in hedgerow units). That is to be secured through landscape planting, habitat enhancements and long-term management, and is a benefit that the parties weighs in favour of the scheme; §8.39.

- (xi) There is no objection based on impact on trees and hedgerows. Hedgerow removals (approximately 4-5m) will be required to facilitate the new access track through the site, whilst allowing access through the site. It is agreed that minor sections of 1m of hedgerow will require removal to install the perimeter fence, but there will be a net gain in terms of tree and hedgerow planting that can be secured on the site. §8.43 -§8.45
- (xii) There are no alleged unacceptable impacts on amenity that would arise from the scheme, the development will not have a significant adverse amenity impact on neighbouring land uses; see §8.48.
- (xiii) The Council does not say that the site comprises a valued landscape,
- (xiv) Fundamentally there are no technical objections to the site's development for a solar farm.
- (xv) It is agreed that there will be some landscape and visual harm arising from the scheme, and harm to the significance of the Halloughton Conversation Area. The level of harm is not agreed and will be the subject of examination at the Inquiry.

## Issues

### Heritage

8. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving a listed building or its setting. Section 72 (1) requires that in the exercise, with respect of any building or other land in a Conservation Area, of any functions mentioned in that section, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The functions include determination of an application or appeal. The only land that falls "in" the Conservation Area as part of this proposal is the access. The section cannot be engaged in respect of the remainder of the scheme, and that should be common ground.
9. The Appellant accepts that the appeal scheme will give rise to some harm to the Conservation Area. That harm is limited and at the lowermost end of the spectrum because fundamentally, the significance of the Conservation Area as a heritage asset draws very little from the appeal site. The key elements of the Conservation Area's

significance, like all of the assets that the Council now refers to, will be entirely unaffected by development of the appeal scheme.

10. The Council falls into a number of significant errors in its heritage evidence. Despite the clear instruction in the Historic England's guidance GPA Note 3 to focus on what matters and why, the Council's evidence ranges far and wide seeking to make connections that do not exist, and repeating assertions which cannot be substantiated. The Council falls into the trap of "*you can see it so there is harm*" and crucially fails to explain what the appeal site contributes to the significance of the relevant assets today.
11. The Council's evidence is entirely preoccupied by the historic Halloughton Prebend which is not something that can be appreciated on site but which is understood by reference to historic documents. It will always be a part of Halloughton's history of course, but the prebend ceased nearly two hundred years ago in 1840, at which time the land was in occupation by a number of different tenants. The estate was then fragmented in 1952 when the Church Commissioners sold land to the sitting tenants. The site is no longer part of a prebendal estate, has no remaining links with the Diocese of Southwell, and while the current landowner of Manor Farm House owns the site, that functional relationship was not present when the site was part of the prebend, or even afterwards, because the site was occupied by different tenant farmers. It is difficult to see how the development of the site now, which will remain in the same ownership as Manor Farm House, could possibly interfere with or obscure those historic connections.
12. Once the scheme is decommissioned, the harm to the Conservation Area and, any other assets to the extent that there is any harm, would be removed. In the context of the existing landscape being of a sylvan character, a feature Mr Partington is at pains to identify, the Council's assertion that there will be some residual harm following decommissioning of the scheme is not credible. Moreover, since much of the proposed planting already exists, and does not require permission in any event, it is something of a moot point.
13. When the site and nearby heritage assets are assessed objectively and in accordance with Historic England's guidance on these matters, there is only a very limited harm to

weigh in the balance. The majority of nearby assets, even those which might have views of the site will not suffer harm to their significance by virtue of the appeal scheme.

## **Landscape**

14. It is agreed that there will be some adverse visual effects arising from the proposal, the Council only identifies significant impacts at one viewpoint at year 10 which demonstrates the suitability of the site for a scheme of this scale. Similarly, while there would be adverse landscape effects, these are largely contained within the red line boundary, and rapidly diminish as one moves away from the site. The site is not a valued landscape and is not designated for its landscape beauty. It is not of high sensitivity and is relatively well contained in the landscape. Additional proposed planting will enhance the landscape structure, complement existing landscape features, and help mitigate the impacts of the development.
15. Following the development, there would be inevitable change across the appeal site. That is to be expected with large scale development and is an inevitable consequence of delivering renewable energy infrastructure. However, given the nature of the development, one that is on, rather than in the landscape most of the landscape elements, that is the field boundaries, the vegetation and the topography will remain intact, and the site will be restored upon decommissioning. The Appellant accepts that the scheme would give rise to some major adverse character impacts within the site for the early years of the scheme, but over time, those effects would decrease as the planting matures. The proposals would not change the character of the wider landscape as a settled agricultural scene, which would continue to prevail with the scheme in place.
16. Post decommissioning the following beneficial elements would remain as a legacy from this project and would collectively enhance landscape character as advocated in the published Landscape Character Assessments:
  - (i) 1250m of new hedgerow and an additional 311m of hedgerow with hedgerow trees alongside public right of way Southwell 43 for the amended scheme.

- (ii) 0.5 hectares/5000 square meters of 15m wide new native woodland belt
  - (iii) 76 semi-mature (heavy standard/extra heavy standard trees), and an additional 6 native trees along the southern boundary of field F4 with the amended scheme
  - (iv) 16.92 hectares of species rich/meadow grassland
  - (v) 80.7 hectares of grassland sown with a grazing mix.
17. Accordingly, while there would be some adverse effects arising from the proposal, the ability of the site to accommodate the scheme without significant adverse long term impacts demonstrates that it is suitable for the proposed solar farm, can be delivered without fundamentally changing the landscape character of the site, and will leave behind a beneficial legacy of enhanced landscape character.

### **Benefits of the Scheme**

18. As set out in the introduction, nationally and locally a climate emergency has been declared. There is an immediate and pressing need for the deployment of renewable energy generation to assist in addressing that emergency, and the appeal scheme would make an appreciable contribution to help the UK meet the challenging legally binding obligation to reach net zero by 2050. This is development of a type that is supported nationally and locally through Government policy, and the Council's development plan. In the context of the urgent need, and given the schemes ability to deliver quickly, and cost effectively, the provision of renewable energy should be given substantial weight in the planning balance.
19. The biodiversity benefits of the scheme are significant. The overall decline in biodiversity is something that has been recognised nationally and internationally, and is to be addressed through legally binding measures in the Environment Act. This scheme doesn't just achieve those targets, it far surpasses them with a very significant BNG of 36.78%. That is an environmental measure that achieves significant weight in the planning balance and will not be realised without development of the appeal scheme.

20. There are landscape enhancements which have already been addressed above, and which achieve moderate weight in the planning balance. So too does the flood risk betterment which is addressed by Mr Burrell in his Proof at §11.20-11.29.
21. Finally, there will be economic benefits of the scheme; the creation of up to 80 construction jobs in addition to jobs being created in the supply chain. The £30m capital expenditure in renewable energy infrastructure would help contribute towards funding and securing delivery on low carbon targets, whilst resulting in a business rates contribution to the District Council of c£190,000. That is a benefit of the scheme that attract moderate/ significant positive weight in the planning balance.

## **Conclusions**

22. This is a scheme that accords with the development plan taken as a whole, and which benefits from the presumption in favour of renewable and low carbon development set out in the NPPF. There is some harm to be weighed in the balance, but it is limited in nature and extent. While the Appellant recognises the need to give great weight to the conservation of heritage assets, the harm to the historic environment alone, and in combination with the landscape and visual impacts identified come nowhere near the threshold of outweighing the substantial benefits of the scheme.
23. In conclusion it is abundantly clear that there are only limited impacts to be weighed against a number of very significant benefits – chief among them, but certainly not exclusively, is the provision of renewable energy.
24. Accordingly, the Appellant will in due course invite the Inspector to grant permission subject to appropriate conditions.

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