

**Application by EDF Energy Renewables Ltd for planning permission for the construction of a solar PV development with a maximum capacity of 49.9MW on a site with a fenced area of approximately 65.5ha on land off Church Lane, in the parishes of Aldington and Smeeth, in Ashford Borough, Kent**

**PLANNING STATEMENT**

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## 1.0 Introduction

- 1.1 This Planning Statement accompanies the planning application by EDF Energy Renewables Ltd for the construction of a solar farm on land lying off Church Lane in the parishes of Aldington and Smeeth, to the south of the M20 in Ashford Borough. This will provide a capacity of up to 49.9MW, i.e. below the threshold at which a solar energy development would become a Nationally Significant Infrastructure Project (NSIP). Ashford Borough Council (the Council) has confirmed through its Screening Opinion dated 31 August 2021<sup>1</sup> that an Environmental Impact Assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017<sup>2</sup> will be required for this development, and the application is therefore supported by a series of assessments to cover the topics identified through the scoping exercise undertaken with the Council. While there are references in the Environmental Statement (ES) summarising the basis of the Development Plan position in this part of Kent, together with some of the material considerations which may have to be balanced against the Plans under Section 38 of the Planning and Compulsory Purchase Act 2004, it defers to this Planning Statement for the full assessment of the proposal against policy.
- 1.2 This Planning Statement discusses the energy and environment policy origins of renewable energy development, the Government's planning policies towards renewable energy development, and describes the deployment to date of renewables in the UK. It discusses the national and local planning policy context for the proposed development, the balance which needs to be struck between the need for renewable energy development and the effect of the development proposed on the local environment. In addressing this balance, this Planning Statement takes into account the benefits which would arise from the construction and operation of the development.
- 1.3 This Planning Statement has been prepared on behalf of EDF Energy Renewables Ltd by David Stewart, a Chartered Town Planning Consultant and Principal in the firm of

David Stewart Associates, following a policy review and a review of the information contained in the ES. He has been engaged in planning consultancy work on renewable energy developments since 1992, having appeared as an expert planning witness on such projects on 138 occasions (including the first Electricity Act Section 36 wind farm proposal in England at Little Cheyne Court on Romney Marsh in Kent, as well as other wind farms throughout Kent, Sussex, Essex, Norfolk, Cambridgeshire, Bedford, and Buckinghamshire) as well as preparing 47 written representations appeals, and further EIA proposals, involving wind, solar, hydro and battery storage, with, in total, 52 years' experience in Town and Country Planning across all four countries in the United Kingdom. In the last two years he has prepared Planning Statements in support of six solar farms between 30MW and 49.9MW installed capacity, across England, from Cornwall to Durham. He is now based in East Anglia.

- 1.4 Updates following the publication of amended National Policy Statements in November 2023, the latest version of the NPPF (December 2023) and the East Stour Supplementary Environmental Information (SEI) (January 2024) have been provided by Engena Limited.

## 2.0 **The Proposed Development**

- 2.1 EDF Energy Renewables Ltd is an international developer of energy projects and supplier of electricity in the United Kingdom. The parent company is engaged in the development of Hinkley Point C in Somerset as well as Sizewell C in Suffolk.
- 2.2 The proposed development is described in detail in the Environmental Statement, but in summary comprises:

The construction and operation of a solar farm with a maximum capacity of up to 49.9MW, construction compounds, together with combined inverter and transformer units and a substation compound to export into the Sellindge Converter Station, which lies on the east side of Church Lane via underground cables.

All heavy commercial vehicles will approach the site via the M20, A20 and Church Lane from the north. Some new sections of track will be required within the development site itself to service the solar array. Appropriate measures will be taken to secure safe passage for walkers on the short sections of public footpath across the proposed array. A more detailed analysis of the issues of Public Rights of Way across and adjacent to the development is carried out later in this Statement.

All cabling within the site will be underground. To provide security during operation, the actual areas of the solar panels will be fenced during the lifetime of the operation of the solar farm, up to a height of no greater than 2.15m. There will be no security lighting during the operation of the solar farm.

### 3.0 **Climate change and the need for renewable energy development**

#### 3.1 **Introduction**

3.1.1 Climate change is regarded by many as one of the most serious threats facing the world's environment, economy and society (from Climate Change - the UK Programme 2006<sup>3</sup>). The overwhelming consensus of scientific opinion is that there is a link between human actions and a variety of climate-related issues such as rising sea and air temperatures, rising sea-levels, melting ice caps and changes in the pattern and severity of a range of meteorological conditions. In this context, the national policy imperatives that the Government has set are predicated on the prevailing scientific concerns and are not open to challenge in the context of a planning public inquiry. They are clearly set out in the Renewable Energy Strategy<sup>4</sup> published in July 2009 and the UK Renewable Energy Roadmap of 2011<sup>5</sup> with its 2012 and 2013 updates<sup>6</sup> and <sup>7</sup>, which identify the threats from climate change and the responses to it. National policy here is clear and unequivocal and falls to be applied, not questioned.

3.1.2 The background to the drive to increase the use of renewable sources of energy has its roots in the recognition that the burning of fossil fuels has an adverse effect on the

climate of the world as a whole and that global measures are required to deal with it. The use of renewable resources as an increasing proportion of our total energy consumption is seen as a key part of the ultimate sustainable solution, alongside energy efficiency, technological innovation and conservation, especially as it does not rely on the consumption of fossil fuels for its fuel supply. It needs to be developed alongside a campaign of increasing awareness by the public and industry of the need for energy efficiency. The response to the issues of climate change can be traced through a series of conventions, directives and policy statements at international, European and national levels over the last three decades. These objectives have been defined in both European Union law (for example, the Directive on Renewables 2009/28/EC of June 2009<sup>8</sup>), and in UK law and policy.

- 3.1.3 The ES sets out at Chapter 2 the background to global climate change from the setting up of the Intergovernmental Panel on Climate Change (IPCC) in 1988. It analyses the work of the three working groups on the physical basis of climate change; climate change impacts, adaptation and vulnerability; and on mitigation. Their work culminated in the IPCC Special Report on Global Warming of 1.5 degrees in 2018 which is described in detail in the ES. The ES looks at the issue of climate change in the UK and at the regional level. It also sets out the series of international agreements following the Earth Summit at Rio, with the Kyoto Protocol in 1997, and the COP21 Agreement in Paris in 2015. The latest of the COP series was held recently in Glasgow to drive forward the challenge of reducing greenhouse gas emissions across the world.

## 3.2 **The response to climate change in Europe**

- 3.2.1 In 2009, the Renewable Energy Directive (2009/28/EC) set national targets for energy from renewable resources – 20% across the EU, and 15% in the case of the United Kingdom, by 2020. The EU then adopted the 2030 Climate and Energy Framework in 2014<sup>9</sup> with a 27% target for renewable energy by 2030, later raised in 2018 to 32%, alongside a 40% reduction in greenhouse gas emissions from 1990 levels. While the UK has formally left the EU, the Government has no plans to depart from the strategy that has been followed for more than the last ten years of working with other European

countries to pursue these climate change objectives, by decarbonising the UK economy and electricity supply, and progress towards this is now being accelerated.

### 3.3 **The UK Government**

3.3.1 UK energy policy up to 2010 was derived from the Energy White Paper of 2007<sup>10</sup>, the Climate Change Act of 2008<sup>11</sup>, and the Renewable Energy Strategy (RES) of 2009, which were followed by a succession of policy pronouncements from the Government over the next thirteen years. The 2008 Act looked ahead to reductions in the UK carbon dioxide emissions by 2050 of 80% and made these legally binding on the Government. These set out the Government's approach to the essential place of renewables in the energy supply system, and they emphasise the key role that the planning system has in delivering the increasing proportion of renewables. These contained a clear steer to planning professionals and local authority decision-makers that they should look favourably on renewable energy developments. One of the key features of the advice was that the wider environmental and economic benefits of all proposals, whatever their scale, are material planning considerations to be given significant weight in deciding whether to grant consent. This was set out in the 2007 Energy White Paper, the National Policy Statements (particularly NPS EN-1 and EN-3<sup>12 and 13</sup>) and the latest National Planning Policy Framework, 2023<sup>14</sup>.

3.3.2 A major development of UK energy policy came forward with the publication of the Renewable Energy Strategy (RES) in July 2009 alongside the UK Low Carbon Transition Plan<sup>15</sup>. The essence of these was that whereas the Government had been working towards a UK 2020 target of 20% of electricity coming from renewable sources, the adopted scenario in the RES is that this figure was now to be raised dramatically. The Government had signed up to the EU requirement that 15% of all energy consumed in the UK should be from renewable sources by 2020, but as the RES pointed out this also covered fuel and heating – i.e. all energy sources and not just electricity. In the light of the difficulties in providing significant elements of fuel and heating from renewables by 2020, the proportion of electricity supply that would have to come from renewables to balance this out was raised substantially, to 30% or more. The National Renewable Energy Action Plan for the United Kingdom (dated

July 2010<sup>16</sup>) set out the UK's approach to ensuring that it would achieve its legally binding obligation to generate 15% of energy demand from renewable sources by 2020.

3.3.3 One of the main issues all along has been that while the targets were expressed in terms of a percentage of all UK energy being derived from non-fossil fuel sources, this covered not just electricity consumption but energy used for transport and heating as well. It is only now, as we have passed the first major target date of 2020 that growth in the use of electricity for transport is accelerating, while district heating schemes using non fossil fuel sources remain hampered by the fixed nature of the difficulties of penetration into the established housing stock.

3.3.4 However, during this period there was a major expansion of solar energy. The RoadMap Update of 2013 dealt specifically with Solar PV, in which it identified that the technology is “... *versatile and scalable, with deployment possible in a wide range of locations including domestic and commercial buildings and where appropriate on the ground; solar projects can be developed and installed very quickly; and the fuel, solar radiation, is free.*” Significant growth in the deployment of solar PV is recorded and solar receives the highest public approval rating of all renewable energy technologies equal to 90% support in the BEIS Public Opinion Tracker Wave published Winter 2021<sup>17</sup> (more recent Waves no longer report attitudes towards specific technologies). Subsequent paragraphs in the Update describe the Government's guiding principles on solar PV. The principles include the commitment to supporting solar PV where appropriately sited, including ensuring consideration is adequately given to environmental considerations and provided opportunities are given for local communities to influence decisions that affect them.

3.3.5 With solar by 2013 already accounting for 12% of renewable energy capacity in the UK, as set out in the 2013 Roadmap Update, the Government then issued further guidance on solar power developments. It prepared a UK Solar PV Strategy whose



Part 1 was published in October 2013<sup>18</sup> and Part 2 in April 2014<sup>19</sup>. The Strategy set out the role of solar PV as one of eight key renewable energy technologies needed to create a clean balanced energy mix, with the Government recognising the potential and role of solar PV in meeting overall renewable energy targets for 2020. It also sought to address the effects of deploying large quantities of solar PV on such matters as grid balancing, grid connectivity and the financial incentives of deployment. In a letter to local planning authorities dated 22 April 2014<sup>20</sup>, the then Minister of State for DECC, Mr Barker, confirmed that:

*“There is still a place for larger-scale field-based solar in the UK’s energy mix. But the Solar Strategy makes it very clear that new solar installations need to be sensitively placed. It sets out four guiding principles, including that:*

Support for solar PV should ensure proposals are appropriately sited, give proper weight to environmental considerations such as landscape and visual impact, heritage and local amenity, and provide opportunities for local communities to influence decisions that affect them.”

- 3.3.6 Then came a statement by the Secretary of State for Communities and Local Government in the House of Commons in March 2105<sup>21</sup>, when he announced changes to the permitted development orders to encourage a major increase in the development of solar power on commercial and domestic buildings – raising the permitted development thresholds to pave the way for this. At the same time he reinforced the comments made in the National Planning Practice Guidance (see below) about the need to avoid the use of the best quality agricultural land when developing solar farms in the countryside. The results of this renewed support for solar have seen the total installation across the UK rising to 13.5GW by the middle of 2021.
- 3.3.7 With the closure of significant parts of the UK fossil fuel generating capacity over the last five years, the National Infrastructure Assessment by the National Infrastructure Commission (NIC) in 2018<sup>22</sup> recommended to Government how the identified needs

for infrastructure and its priorities should be tackled. It supported strongly the use of low carbon energy and sought an increase in the deployment of renewables as the first stage to reducing still further carbon emissions. The same year The Department for Business, Energy and Industrial Strategy published UK Energy in Brief<sup>23</sup> which showed that renewables were making an increasing contribution towards the overall energy mix and anticipated that half of the UK's electricity would come from renewables by 2025, although their own Energy and Emission Projections published in 2019<sup>24</sup> showed that the UK was set to miss its legally binding carbon targets for the period up to 2032 by even wider margins than had been envisaged just the previous year.

3.3.8 The UK Government became the first country to declare a climate emergency in May 2019 in recognition of the crisis being identified across the world from global warming, and the UK Government Committee on Climate Change published a report Net Zero: The UK's contribution to stopping global warming<sup>25</sup>. This recommended a new emissions target of net-zero greenhouse gases by 2050, which would entail the delivery of enhanced capacity of renewable energy to displace fossil fuel power production and also enable the move away from the use of petrol and diesel for powering vehicles. This was followed in June 2019 by the draft Climate Change Act 2008 (2050 Target Amendment) Order 2019<sup>26</sup> which sought to formally amend the Climate Change Act 2008 to bring in a target of at least a 100% reduction of UK greenhouse gas emissions compared to the levels in 1990 by 2050. This "net zero emissions target" raised the Climate Change Act target from 80% and was approved by both Houses of Parliament, and came into effect on 27 June 2019.

3.3.9 In June 2020 the UK Climate Change Committee followed up the net zero emissions target above with a report - Reducing UK emissions: 2020 Progress Report to Parliament<sup>27</sup> - in which it proposed an increase in the interim target of 53% emissions reductions from 1990 levels by 2030 as a necessary step to achieving the new target figures by 2050. Under the Paris Climate Change Agreement of 2015 all countries are obliged to update their commitments to cut emissions and deliver their Nationally Determined Contribution (NDC) by the end of 2020. The Prime Minister announced

on 4 December 2020 that the UK was the first major economy to announce its new NDC and he adopted the proposal from the UK Climate Change Committee of a new target of 68% reduction from our 1990 emissions levels by 2030 (up from 53%) This remains an ambitious pledge given that on current figures the reduction has been only 45% over the close on 30 years of development of renewable electricity. At the same time as the Prime Minister's announcement, the National Audit Office published their Report on Achieving Net Zero<sup>28</sup>. This notes that the new targets will involve making further investment in renewable energy generation as well as changing the way people travel, how land is used and how buildings are heated.

- 3.3.10 Later in 2020 came a further statement of policy in the new Energy White paper from BEIS<sup>29</sup>, following on from the Prime Minister's Ten Point Plan for a Green Industrial Revolution. The Foreword from the Minister states that the way we produce and use energy is at the heart of this approach, taking a decisive shift away from fossil fuels to using clean energy for heat and industrial processes, as much as for energy generation. The White Paper highlights grid connected renewable electricity increasing from 8GW in 2009 to 48GW in June 2020, an increase of 500%, with low-carbon electricity now standing at 54% of all electricity generation and 37% of the total supply now coming from renewables. However, the White Paper predicts that there will be a doubling of the demand for electricity generation by 2050 and consequently a four-fold increase in low-carbon energy generation (from the current 54% level). The key statement for the place of solar energy comes on page 43 where it states that a low-cost, net zero consistent system is likely to be composed predominantly of wind and solar. Finally, at page 55 the White Paper advises that the National Policy Statements are to be reviewed during 2021 to reflect the policies in the White Paper. It also states that: "nothing in this white paper should be construed as setting a limit on the number of development consent orders which may be granted for any type of generating infrastructure set out in the NPS". The corollary of that is of course that the concept of there being no policy limit on the number of projects must also apply to wind and solar schemes that fall below the 50MW threshold which triggers the passage from planning permission to a Development Consent Order procedure.

- 3.3.11 Then, on 20 April 2021, came the announcement by DBEIS of the Sixth Carbon Budget<sup>30</sup>. The Statement issued set out that the UK Government will set into law the world's most ambitious climate change target to reduce emissions by 78% by 2035 compared to 1990 levels. As noted earlier, the original aims for 2050 had been to reach the level of emissions reductions of 80% by 2050 (in the Climate Change act 2008) and it was only in June 2020 that the interim figure of a 53% reduction by 2030 had been set.
- 3.3.12 On 7 October 2021, a press release from DBEIS announced the plan to decarbonise the UK power system fully by 2035<sup>31</sup>. It noted that low carbon generation rose to 59.3% of total generation by the end of 2020 with renewables at a record contribution of 43.1%, and with installed capacity of renewables having grown from 8GW in 2009 to 48GW by the end of June 2021 – a 500% increase. Solar features as one of the key elements of the drive for a massive upscaling in the delivery of renewables over the next 14 years to meet the new policy aim.
- 3.3.13 The most recent changes to the UK energy picture emerged with the publication in April 2022 of the British Energy Security Strategy<sup>32</sup>, following which the Queen's Speech in May 2022 promised a new Energy Bill to carry the Strategy's provisions into law. The Strategy expects a five-fold increase in the amount of solar power in the UK by 2035 from its current level of around 14GW. It will continue to encourage large-scale projects on previously developed land, or lower value land, although this is caveated with the phrase "wherever possible", with projects designed to avoid, mitigate, and where possible compensate for the impacts of using greenfield sites. This is a move away from the Ministerial advice of 2014-15 since it is explicitly recognising that in order to secure five times as much solar in the next 13 years as has been achieved in the UK over the last twenty years, this will involve a radical shift in approach. The position has been reinforced further with publication in 2022 of the UK Growth Plan and in 2023 with the Powering Up Britain policy paper.

3.3.14 It is now nearly three decades since the first renewable energy projects were built in the UK, by which time the UK has failed to reach its 2020 target of 15% of all its energy to come from non-fossil fuel sources. In the next thirty years we are now committed to reaching a net zero emissions position, which is effectively more than six times the amount of energy used in the UK coming from non-fossil fuel sources. In addition we have just a third of that period of time to reach the critical 2030 deadline for withdrawing new petrol and diesel cars for sale, which will require moving millions of drivers onto electric cars, with all the implications that has for the electricity generating industry. The Cleve Hill Solar Farm, Little Crow Solar Park and Longfield Solar Farm decision announcements give a very strong message that the Government recognises that an approach to developing solar through use of domestic roofs and business premises, while laudable in itself as a policy aim, cannot hope to deliver the exponential growth that is now being envisaged and greenfield solar sites will be called on in appropriate locations to make their contribution.

#### 3.4 **The benefits of the development**

3.4.1 The essential benefits of using solar energy for the generation of electricity are that it is renewable, safe and does not release any gaseous emissions into the atmosphere during operation. It also provides for diversity and security of supply which remain part of the Government's energy policy, since the creation of electricity from renewable resources within the UK provides a source that is not open to interruption by the actions of foreign governments or others, nor subject to market manipulation or price uncertainty – a key aim of national energy policy. Also a benefit is the creation of further electricity generation capacity at a time when older plant is being decommissioned.

3.4.2 Another benefit is the issue of economic development. From its beginnings 30 years ago, the very slow growth in the development of new renewable technologies in the UK meant that other countries which had already branched out into these technologies were able to utilise their established manufacturing capacity to supply the emerging

UK industry's demands. The more recent growth in the number and scale of solar installations has created the potential for much of the development stage work to be undertaken using local or UK based national contractors, including the supply of construction materials, accommodation and food for construction workers, and of course on construction, the owners of the land where the panels are located will benefit from rental payments. There would be a need for service personnel to maintain the site, with further local demands for equipment and materials, and the payment of business rates for the completed solar farm.

- 3.4.3 A further factor in the present case is the range of biodiversity benefits that will arise from the conversion of the site from arable cultivation to a solar farm with limited grazing use of grassland available under and around the panels. The ecological report highlights the fact that this is not just a case of marginal net biodiversity gains but very significant ones, adding in reinforced hedgerows and additional tree planting, pond enhancement and hibernacula creation, to go with the benefits of converting partly arable land to grassland over the lifetime of the solar farm.
- 3.4.4 The capacity of the solar farm will be up to 49.9MW. Calculations of the likely electricity generation of the panels are dependent on the 'capacity factor', which involves an assessment of the actual output of the solar farm against its installed capacity recognising that most solar farms have a capacity factor of about 11-12% due to the nature of the resource and the hours of sunlight available in the course of the day. The estimated output of the solar farm here would be of the order of 69.6GWh per annum which would equate to the electricity needs of around 17,000 average households in Ashford Borough (based on SEI figures).
- 3.4.5 The development of the proposed solar farm would make a contribution to the reduction of atmospheric pollution, though the effects will not necessarily be felt in the immediate locality and will be long term over the life of the solar farm. Solar energy forms part of the overall electricity supply system and power generated has to be taken by the grid. It will therefore generally displace other sources of generation

and the nature of the system is that these will normally be fossil fuel sources. Once the carbon costs of producing the panels and setting up the array have been paid back by the operation of the scheme, virtually all the future production will be offsetting emissions from carbon sources.

3.4.6 There can be no definitive answer year on year as to precisely how much carbon dioxide (CO<sub>2</sub>) each kWh of solar energy can be expected to save (for the purposes of the estimations calculated for this application the figure of 340 tonnes of carbon dioxide per GWh for electricity supplied by gas *DBEIS 2018 UK Greenhouse Gas Emissions, Provisional Figures Statistical Release: National Statistics (March 2019)*<sup>24</sup>, but what is perfectly clear is that even with the reductions of savings as other technologies clean up their own emissions, the Government remains convinced that renewable energy has a key role to play in its overall strategy. The evidence as set out below is that renewables such as wind and solar are now cheaper than gas (and far cheaper than nuclear) which itself has a downward effect on the wholesale pricing process. The DBEIS publication *Electricity Generating Costs 2020*<sup>35</sup> shows that solar and onshore wind are now 30-50% cheaper than previously thought, and predicts that by 2025 the cost of solar and onshore wind could be half that of gas fired power supplies, putting very much into the past the claims that renewables are having to be subsidised by more centrally generated sources of power.

3.4.7 Quite apart from the local benefits and the energy savings, the scheme would be a contribution towards the Government strategy of securing an ever-increasing amount of electricity from renewables now we have moved on to the much more challenging figures for the period beyond 2020.

#### **4.0 National Planning Policies**

4.1 Under the provisions of Section 38 of the Planning and Compulsory Purchase Act of 2004 there is a duty placed on the decision-maker dealing with planning applications and appeals under which the decision has to be made in accordance with relevant policies in the adopted development plan, unless other material considerations indicate that a different decision should be made. Emerging development plans are “other

material considerations” as are statements of national planning policy issued by the Government and the Town and Country Planning EIA Regulations. The weight to be given to such considerations against the adopted policies is a matter for judgement in each individual case.

4.2 Despite the primacy the legislation gives to the development plan it is useful to start an assessment of the policy context by looking at the national policy framework, which is the basis under which more local policies will evolve. These policy documents include the overarching National Policy Statements on a variety of topics, the chief of which for this proposal are those on Energy and Renewable Energy Infrastructure (EN-1 and EN-3), as well as the 2021 consultation on the revised EN-3, with the new version of EN3 published in late 2023.

4.3 In December 2023, Government published the latest version of the revised National Planning Policy Framework (NPPF). Guidance Notes for particular areas of interest remain in an on-line form, with the one on Renewable and Low Carbon Energy being the one of main concern for this proposal.

#### 4.4 **National Policy Statements**

4.4.1 The relevant national policy statements are the overarching NPS for Energy (EN-1) and the Renewable Energy Infrastructure (NPS) (EN-3). These statements were laid before Parliament for approval in June 2011 and were designated on 19 July 2011. While these NPSs are primarily designed to provide a policy framework for nationally important developments (Nationally Significant Infrastructure projects) which will pass through a different planning procedure for a Development Consent Order (in the case of renewable energy developments these are proposals for more than 50MW capacity, which were formerly dealt with under the Electricity Act procedures), they are confirmed to be a material consideration in the determination of planning applications such as the present proposal below the 50MW limit.



4.4.2 At paragraph 1.2.1 of EN-1 it is stated that *“In England, this NPS, in combination with any relevant technology specific NPSs, may be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended).”* Furthermore, *“Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply (as they are not reliant on fuel for generation). Our analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar”* (paragraph 3.3.20). The clear urgency and necessity to increase the transition to a low carbon economy (through the installation of renewables technologies) is evident. To cite but one example, paragraph 2.3.3 of EN-1 states, *“Our objectives for the energy system are to ensure our supply of energy always remains secure, reliable, affordable, and consistent with meeting our target to cut GHG emissions to net zero by 2050, including through delivery of our carbon budgets and Nationally Determined Contribution. This will require a step change in the decarbonisation of our energy system.*

*Meeting these objectives necessitates a significant amount of new energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level. This includes the infrastructure needed to convert primary sources of energy (e.g. wind) into energy carriers (e.g. electricity or hydrogen), and to store and transport primary fuels and energy carriers into and around the country...”*. The need for renewables is recognised in Paragraph 3.3.62 *“Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure”*. Paragraph 3.3.63 goes on to state: *“Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible.”*

4.4.3 The main aim of the NPS on Renewables (EN-3) is to provide guidance for the Planning Inspectorate dealing with proposals for developments in excess of 50 MW

but the advice also states that the guidance might be a material consideration to LPAs handling proposals under the Town and Country Planning legislation. Already noted earlier is the latest version of the Energy White Paper (December 2020) which confirms that there is nothing in UK Government energy policy which seeks to place limits on the amount of renewable energy infrastructure which may be consented.

- 4.4.4 While the original EN-3 did not specifically address the issue of solar, which was then still in its infancy as a major provider of renewable energy. It gains 21 pages of guidance on solar photovoltaic generation, noting that solar farms are not only one of the most established renewable energy technologies in the UK and the cheapest form of electricity generation worldwide, but they can also be erected quickly. It can now be deployed at costs which are almost subsidy-free and therefore at little or no cost to the consumer (Paragraphs 2.10.13 and 2.10.14). EN-3 reiterates that a massive upscaling of solar is required by the Government and is a key part of the government's strategy for low-cost decarbonisation of the energy sector. It recognises the benefits of siting solar farms in close proximity to grid connections with spare capacity, and crucially notes (2.10.29) that while it is desirable that solar arrays should utilise brownfield, previously developed land, contaminated land, industrial land or low and medium grade agricultural land, *“however, land type should not be a predominating factor in determining the suitability of the site location”*. It goes on at para 2.10.30 to note that:

“Whilst the development of ground mounted solar arrays is not prohibited on Best and Most Versatile agricultural land, or sites designated for their natural beauty, or recognised for ecological or archaeological importance, the impacts of such are expected to be considered and are discussed under paragraphs 2.10.66 – 2.10.83 and 2.10.98 – 2.10.110.”

The tenor of this newly published advice, given in the light of the need for a five-fold increase in solar power generation over the next 11 years, sets the need, importance of solar and its location regarding agricultural land value into its proper context.

- 4.5 National Planning Policy Framework 2023

4.5.1 The NPPF revised in December 2023 sets out in Part 2 that the purpose of the planning system is to contribute to the achievement of sustainable development, which itself has three dimensions: economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. Thus at the heart of the NPPF is a “presumption in favour of sustainable development”, which can be seen as the golden thread running through both plan-making and decision-taking. The environmental objectives include mitigating and adapting to climate change, including moving to a low carbon economy. These objectives are to be delivered through the implementation of plans following the guidance in the Framework, although they are not criteria against which every decision can and should be judged. Planning policies and decisions should play an active role in guiding development towards these sustainability objectives, and para 20 notes that in terms of preparing strategic policies, plans must make sufficient provision for development of energy as well as planning measures to address climate change mitigation and adaptation. The presumption in favour of sustainable development means that:

*For plan-making this means that:*

- a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects:*
- b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:*
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area;*  
*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.*

*For decision-making this means:*

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- 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 effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.**

Para 12 of the NPPF notes that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. In the present case there is in place a Local Plan for the Ashford Borough which contains policies which are relevant to the development of solar energy, as it has at Policy ENV10 specific support for the development of renewable and low carbon energy in appropriate locations thus the plan is compliant with the NPPF and so up to date in this regard. As such it is c) above which is material to the present proposal in terms of decision making and the proposal can be approved ‘without delay’ if it accords with the development plan.

- 4.5.2 Succeeding Parts of the NPPF deal with a variety of topics that have no or limited relevance to a solar energy proposal, such as Part 6 on Building a Strong Competitive Economy; Part 8 on Promoting Healthy and Safe Communities, where the only material issue is the protection of valued local facilities which could include the public rights of way network and recreation facilities; and Part 9 on Promoting Sustainable Transport, where again it is the emphasis on the rights of way network which is relevant.

4.5.3 Section 11 on making effective use of land indicates that policies should set out clear strategies for accommodating objectively assessed needs in a way that makes as much use as possible of previously developed or brownfield land, but renewable energy is not addressed as such anywhere in this part of the NPPF, and indeed unlike such matters as housing, industry and minerals where objectively assessed needs in the context of Kent are necessary and realistic, no similar approach can be taken for a UK-wide need for the delivery of a five-fold increase in the current level of solar energy in just the next 11 years. Part 12 of the NPPF on achieving well-designed places, again is not advice which applies directly to a scheme for a solar farm. Achieving landscape best-fit and avoiding harm to a range of interests have to be assessed against the site-specific merits of the proposal and not against a metric of a “well-designed place”.

4.5.4 The NPPF then deals in more detail with climate change in Chapter 14 and has the following advice:

160. To help increase the use and supply of renewable and low carbon energy and heat, plans should:

a) Provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);

b) Consider identifying suitable areas for renewable and low carbon energy sources and supporting infrastructure, where this would help secure their development; and

c) Identify opportunities for development to draw its supply from decentralised renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

...

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

a) 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 significant cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas...

4.5.5 In relation to the **conservation of the natural environment**, para 180 sets out that the planning system should contribute to and enhance the natural and local environment by:

a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

4.5.6 Advice in relation to the noise environment for developments is also set out in para 191 of the Framework.

4.5.7 In relation to the **conservation of the historic environment**, para 195 argues that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Para 196 goes on to state that:

Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;

b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;

c) the desirability of new development making a positive contribution to local character and distinctiveness; and

d) opportunities to draw on the contribution made by the historic environment to the character of a place.

Further advice at paras 200-214 addresses how proposals may affect heritage assets and how potential impacts on the significance of a designated heritage asset including effects on its setting should be assessed. This includes at para 209 consideration of cases where the asset is not designated, and where effects on such an asset require a balanced judgement on the scale of harm or loss and the significance of the asset.

4.5.8 The key approach for this application is a recognition of the primacy that the advice gives for sustainable development. There is a presumption in favour of development that accords with this principle, and renewable energy can be recognised inherently as a form of sustainable development in that it fulfils all three of the limbs of economic, social and environmental elements of sustainable development.

#### 4.6 **The web-based guidance**<sup>36</sup>

- 4.6.1 The latest version of the National Planning Practice Guidance on Renewable and Low Carbon Energy was published in June 2015 and updated in August 2023. It reiterates the importance of renewable and low carbon energy, specifically referring to its contribution to security of supply, reduction in greenhouse gases, and the stimulation of new jobs and businesses. The Guidance reiterates that local planning authorities should develop a “*positive strategy to promote the delivery of renewable and low carbon energy*”, while recognising that this does not mean that the need for renewable energy automatically overrides environmental protection and the concerns of local communities. It notes that there is no specific quota which any local plan has to deliver i.e. there is no target or cap on deployment, and the Guidance simply instructs that the policies should be designed to maximise renewable and low carbon energy development.
- 4.6.2 The web-based guidance provides a detailed set of advice on the way in which solar energy developments should be considered. The advice at para 13 is as follows:
- i) “... encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;*
  - ii) where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. See also a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013 and written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015;*



- iii) that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- iv) the proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;*
- v) the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- vi) the need for, and impact of, security measures such as lights and fencing;*
- vii) great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- viii) the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- ix) the energy generating potential, which can vary for a number of reasons including, latitude and aspect..."*

4.6.3 Nothing in the Guidance, apart perhaps from the second bullet point above, is creating a different approach in planning policy terms to the determination of planning applications and appeals. Notwithstanding the release of the Ministerial Statements and the publication of the planning practice guidance, the NPPF is to remain the national planning policy guidance for solar PV development, as for other forms of development.

#### 4.6.4 **Other elements of the National Planning Practice Guidance**

Other sections include conserving and enhancing the historic environment, environmental impact assessment and the natural environment. The advice on heritage assets follows that in the earlier PPS5, its Practice Guide and the English Heritage Guidance, setting out how to define the terms of the key test in the NPPF paras 205-208 as to how to establish whether a proposed development will result in substantial or less than substantial harm to a designated asset. The full text of this NPPG advice is to be found at para 12.23-12.25 of the ES and does not need to be restated here. The NPPG also gives advice on how to deal with non-designated assets such as those which may be identified under parts of the site as buried remains, and the setting of heritage assets away from the site in the wider area.

## 5.0 Development Plan

5.1 The adopted Development Plan for the purposes of Section 38 of the 2004 Act is the Ashford Borough Local Plan<sup>37</sup> adopted in 2019. This had been preceded by some way by the Council's Renewable Energy Planning Guidance Note 2 – The Development of Large Scale (>50kW) Solar PV<sup>38</sup> which was adopted by the Council's Cabinet in 2012 but is not part of the statutory Development Plan. The site lies within two parishes (Aldington and Smeeth) and neither has an adopted Neighbourhood Plan, although a plan for an area including Aldington and Baldington is under currently under consultation at the present time. It currently has no material status for this application in terms of the 2004 Act. The Council also prepared the Ashford to Zero Plan<sup>39</sup> which has led to the Ashford Climate Change Strategy and reference to its contents will be dealt with later in this section of the Statement.

## 5.2 **Ashford Borough Local Plan**

5.2.1 The Vision of the adopted 2019 Local Plan, which predates the national Climate Emergency Declaration, nevertheless sets out a positive approach to adapting to and mitigating the effects of climate change, by promoting, inter alia, sustainable energy technologies. In their Pre-Application Response dated 22 June 2021<sup>40</sup>, the Council

identified nine policies from the plan as being relevant to the proposal, these being:

SP1 – Strategic Objectives

SP6 – Promoting High Quality Design

TRA7 – The Road Network and Development

ENV1 – Biodiversity

ENV3a – Landscape Character and Design

ENV5 – Protecting Important Rural Features

ENV6 – Flood Risk

ENV10 – Renewable Energy

IMP1 – Infrastructure Provision

In addition, I have identified a further four policies which would be expected to have some relevance to a solar farm application, albeit they do not supplant the primary tests in ENV10. These are:

ENV9 – Sustainable Drainage

ENV13 – Conservation and Enhancement of Heritage Assets

ENV14 – Conservation Areas; and

ENV15 – Archaeology

5.2.2 As the Council suggest in their Pre-Application response, policy ENV10 is the primary policy dealing with renewable and low carbon energy in the Plan. Its full text is as follows:

*ENV10 – Renewable and Low Carbon Energy*

*Planning applications for proposals to generate energy from renewable and low carbon sources will be permitted provided that:*

*a) The development, either individually or cumulatively does not result in significant adverse impacts on the landscape, natural assets or historic assets, having special regard to nationally recognised designations and their settings such as AONBs, Conservation Area and Listed Buildings;*

*b) The development does not generate an unacceptable level of traffic or loss of amenity to nearby residents (visual impact, noise, disturbance, odour);*

*c) Provision is made for the decommissioning of the infrastructure once operation has ceased, including the restoration of the site to its previous use; and*

*d) Evidence is provided to demonstrate effective engagement with the local community and local authority.*

*A statement should be submitted alongside any planning application illustrating how the proposal complies with the criteria above and any mitigation measures necessary and be informed by a Landscape and Visual Impact Assessment.*

5.2.3 The text supporting ENV10 notes the onus on the Council to design their policies to maximize the delivery of renewable and low carbon energy. Given no areas have been identified in the Borough for onshore wind, unless a parish council does so in its neighborhood plan, then onshore wind is not expected to be acceptable anywhere in the Borough. For Ashford, this means that if it is going to be able to deliver a significant further contribution of standalone renewable and low carbon energy it is to solar that all attention will be directed. Yet we can see in para 9.107 that the text refers to:

*“National policy guidance highlights the need to focus large scale solar farms on previously developed land and non-agricultural land and as a last resort, low grade agricultural land. This greatly limits the possibility of potential site in the Borough.”*

5.2.4 Again that approach towards the “sequential testing” of suitable sites is not reflected in the updated National Policy Statements and recent planning decisions across England, to which further reference will be made in Section 7 of this Statement. One

in particular is the site immediately to the east of the current proposed site which was allowed on appeal in 2015, after the various Ministerial Statements referred to earlier in section 4 above, and during the passage of the Local Plan towards adoption.

5.3 Ashford Borough Council Renewable Energy Planning Guidance Note 2 – The Development of Large Scale (>50kW) Solar Version 2, 2013.

5.3.1 This Guidance is not part of the development plan and is now some 11 years old, but it is notable that even in 2013, the text suggested under planning application considerations at (g) that:

“Ideally, large scale solar PV arrays should be directed towards previously developed land/brownfield sites, contaminated land, industrial land. There are few sites of appropriate status and size in Ashford Borough. Large scale solar PV arrays should avoid landscapes designated for their natural beauty, sites of acknowledged ecological/archaeological importance/interest. It is therefore likely that such development will look to land currently in agricultural use.”

5.3.2 It goes on to note the need to take account of the Best and Most Versatile Land (Grades 1 2 and 3a of the Agricultural Land Classification) whose presence would be a significant issue alongside other sustainability considerations. It then sets out a series of steps for the different Grades, taking grades 1 and 2 separate from Grade 3a as grades of land that would not normally secure support for their use for a solar farm. This is now out of step with the updated National Policy Statements. The remainder of the advice concerns a range of technical site issues.

5.4 Climate Change Strategy June 2022

5.4.1 Ashford’s climate change strategy was adopted in 2021, with the climate change strategy published June 2022. This sets out as one of a number of Priorities:

Priority 3: Reduce reliance on fossil fuels for energy generation by increasing renewable energy generation and consumption

5.4.2 This Strategy stemmed from the Ashford to Zero Plan, the text on this topic notes the national plan to increase the amount of low-carbon electricity fourfold to replace fossil fuel generation, and under the objectives and actions it seeks to increase the number of sites suitable for renewable energy provision by including renewable energy in the call for sites in the next local plan. It notes that from a Council perspective it has been proactive in developing solar energy from council properties such that the current annual output is estimated to be around 357,000kWh per year. However, to put that figure into context and address why it is so difficult to rely on building-mounted solar arrays, the total predicted output of the East Stour Solar Farm is 69,600,000kWh pa (i.e. 69.6GWh), and is thus no less than 232 times the total amount that is being achieved on Council properties a year by 2021.

## 6.0 Alternatives and site selection

6.1 There is no requirement that, in terms of the benefits, any renewable energy project has to have demonstrated that there is no better site for the development. Schedule 4 (2) of the Environmental Impact Assessment (EIA) Regulations requires there to be submitted:

*“A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”*

6.2 The NPS EN-1 referred to above (at section 4.3.9) states that:

*“as in any planning case, the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to a proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS.”*

It goes on to confirm that from a policy perspective there is no general requirement to consider alternatives or to establish whether a development represents the best option. However it also notes that there are specific requirements, as at Section 5.4, under the Habitats Regulations for the decision-maker to consider alternatives, which have to be identified by the applicant. The NPSs may also impose a policy requirement to examine alternatives on discrete topics and indeed NPS1 does so in respect of seeking a sequential test for flood risk assessments. NPS3 does not contain any separate policy on alternatives.

- 6.3 There is therefore no general requirement to consider alternative sites or proposals to the one under consideration within the national advice and Ministerial statements, nor even within the EIA Regulations. The national policy is to secure the deployment of renewable energy resources in large quantities to meet the national targets and as stated in NP3 (Paragraph 2.10.11), “*The Powering Up Britain: Energy Security Plan states that government seeks large scale ground-mount solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. It sets out that solar and farming can be complementary, supporting each other financially, environmentally and through shared use of land and encourages deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement.*” As already mentioned, Paragraph 2.10.30 of EN-3 states “...*the development of ground mounted solar arrays is not prohibited on Best and Most Versatile agricultural land...*”. The role of solar energy as one of the elements of the Government’s drive for a major increase in renewables is not in dispute. National targets must be met and, where met, raised as appropriate. Renewables must be developed wherever and whenever the technology is viable and environmental, economic, and social impacts can be addressed satisfactorily. As such, no concept of the need to identify a better alternative site exists, and as I explore later in this section this creates some tensions with certain aspects of the PPG advice. This is not a form of development for which there is a single site solution, since there will be a need for a very large number of sites to contribute towards the targets. All proposals will have some environmental effects and these are the consequences of the drive to switch the sources of power

away from traditional ones. However, these various sites will in time be seen to be complementary to each other as providing a series of deployment locations.

6.4 Crucial for new solar farms in the current climate for energy generation is the grid connection and grid capacity in the area. The availability of a grid connection with available capacity in close proximity to the site of a solar farm is a fundamental element of the technical and cost considerations which drive the search for sites for solar farms in England. Without a readily available grid connection close to the site, most sites for solar farms would not be viable. Indeed, as sites scale up in terms of their capacity, the nature of the power lines and connection points becomes even more critical (as was seen in the recent Secretary of State decision at Cleve Hill in Kent, where a direct connection on site to a major grid line was essential for exporting the electricity). In addition, the extent of available capacity in the local grid is of equal relevance, since there is significant variability across a District, or County or Region as to the available capacity in each section of overhead line. In the present case, therefore, the Applicant has had to identify not only a suitable connection point in as close proximity as possible for connection into the grid but also one where there is confirmed capacity for the maximum amount of power which has to be exported from the development. It is overwhelmingly the case, therefore, that remaining grid capacity, on a system that has reached its capacity in many areas of England, is a driving force in the identification and development of new solar farm schemes.

6.5 Another reason for the suitability of this site for solar development is the nature of the wider landscape setting of the site and its neighbouring settlements, a lack of riverine flooding risk, and the absence of ecological and cultural heritage designations on or adjacent to the site. It is not affected by any landscape designations at the national or local level or green belt designations. It is not close to habitations such that there is predicted to be any harm from either noise or glint and glare.

6.6 Renewable energy schemes are by nature not centralised energy generation plant, such as coal fired power stations, but disaggregated forms of energy generation whereby multiple different sites and schemes are required to match the equivalent output of



centralised power plant. Consequently, the site selection process for new solar energy sites does not employ a comparative exercise of identifying potential sites and selecting a preferred site from the options. Instead, having identified in the case of the Sellindge Converter Station a capacity for up to 49.9MW of solar generated power the Applicant then analysed all the land within a 4km radius to determine potential constraints to the development. All potential solar energy sites are considered to be viable as long as they accord with a number of site selection and economic criteria, as described below, in addition to avoidance of unacceptable environmental impacts. This is especially crucial in the context of the starkly obvious position that, unlike the situation that arises for certain forms of EIA development, such as a new regional hospital or a bypass for which only one site/route is ultimately required, there is no theoretical limit to the number of solar farm sites that may be developed. Thus while it may be essential to ensure that the best route is chosen for a bypass, the same cannot apply to a solar energy development.

6.7 Typically, the selection of a site for a solar energy project is a complex process. It involves a number of technical, commercial, environmental and planning criteria discussed below. These criteria were applied by the Applicant as a preliminary feasibility screening assessment of the potential for solar energy development and to determine the preferred area of land for development. The criteria are as follows:

- *Land Availability – the landowner must support the development and be prepared to enter commercial negotiations. In addition the aspect of the available land is an important factor, such that the site is not occluded from the principal movement of the sun.*
- *Energy Resource – the site must have an adequate solar profile for effective energy generation.*
- *Electrical Connection – it must be technically and economically viable to connect the site to the local electricity distribution system, and into a part of it which has adequate capacity for the project.*

- *Road Access – there must be adequate access to the site via the highways network to the site for construction traffic and articulated lorries.*
- *Environmental Sensitivity – if the site is designated or protected, whether nationally or locally, for its landscape, ecology, geology, or cultural heritage including archaeology then it will usually be avoided. Similarly, if the site is near to any such feature then setting impacts would need to be appraised in determining whether a site carries with it too great a degree of planning risk. Typical features of sensitivity include national parks, AONBs, SPAs, SACs, SSSIs, NNRs Listed Buildings and scheduled monuments.*

6.8 Applicants for solar energy development utilise a variety of means and methods to identify potential solar farm sites, from advertisements to GIS constraints mapping. Once a site is identified, it will typically need to be appraised against the characteristics described above. During the appraisal process, the developers must determine whether the scheme would be economically viable. The East Stour site was selected by the applicant on the basis of the primary criteria set out above, and was then appraised for its potential environmental effects, so as to ascertain whether there were clear barriers or sensitivities that would be unacceptably affected by the development. Identifying a suitable area of land with a willing landowner is a crucial part of the exercise. A critical element in the evaluation exercise was that the site can be connected into the grid via an underground cable to a major sub-station close to the site boundary off Church Lane (at Sellindge), which has the capacity to receive all the energy from the proposal. The presence of the much smaller Sellindge Solar Farm (10.6MW on 16ha) almost abutting the proposed East Stour site was a further supporting factor. The full details of the site selection exercise for this case are set out in paras 3.1 to 3.84 of the ES.

6.9 Essentially therefore, where sites come forward that demonstrate that they have the essential characteristics necessary for electricity generation with an economically viable return such opportunities should be embraced due to the limited site options available.

## 7.0 **Agricultural land value**

7.1 For every solar farm scheme that comes forward for development, multiple sites may be discounted. Fundamentally there are many reasons why potential sites cannot be developed, so there should be no assumption that a multitude of different sites are available for solar energy generation and that, *ergo*, only sites on brownfield land or very poor quality land should be developed. If such an approach were taken, the UK would fall far short of the deployment of renewable energy necessary to achieve our targets for low carbon generation and reductions in greenhouse gases. Indeed, in this respect, a review of over 23,000 brownfield sites across the UK by solar developer, Kronos Solar, published in August 2013<sup>41</sup> identified that only 128 such sites demonstrated the potential for solar farms, whilst only 21 sites were deemed viable by the study. The use of such sites for solar farms in preference to housing or employment allocated land raises a further planning issue, whereby solar farms on such land may hinder progress on Government policy targets for requirements for new homes and employment creation. The idea that using a brownfield site for a solar farm may somehow be more sustainable than using it for, say housing, simply does not stand up to examination. If, as an example, 100 hectares of brownfield land within urban limits were to be used for solar, that would almost inevitably mean that the demand for housing that could have used such sites would be deflected elsewhere and if there are then insufficient brownfield sites to satisfy that demand for housing, it will be directed onto greenfield sites. Solar farms do not have any locational requirements in the context of sustainability that require it to be in a built-up area – where there are precisely the sort of brownfield sites that are likely to be best used for housing or employment.

7.2 There has been a tendency to view the advice in the Ministerial Statement and the PPG as mandating a formal sequential test for all solar development. It can be noted that it has been recognised in the past by the Courts that even onshore wind with its wider landscape and visual as well as other effects cannot be required to undertake

any form of sequential testing of available sites in any local or wider area (See Derbyshire Dales and Peak District National Park v SoS in the case of Carsington Pastures<sup>42</sup>). It is also the case that there is no detailed guidance in the County as to where solar developments could go in terms of identified sites. That means that we have the position that decisions still have to be made in the first instance in the context of the actual development plan policies, with the National Planning Practice Guidance (NPPG) only being a material consideration to be added at the end. It is very interesting in this regard to see that the SoS decision on the solar farm at Ellough in Suffolk was quashed in the High Court<sup>43</sup> on the grounds that he did not apply the Development Plan tests properly. On a redetermination decision issued in March 2015<sup>44</sup>, Mr Pickles reversed his decision and consented the scheme, having established that it did conform to the Development Plan, even though it may not have conformed to the NPPG advice to the same extent.

7.3 This is an area of policy which has become confused in part as a result of attempts by Government to respond to their energy policy requirements and the financial and political implications that arise from them, when the market provides a different level of response to that which may have been anticipated. In the case of solar, there is a subtly different concern, namely that being the issue of costs to the Treasury arising from the mass of proposals seeking to benefit from what may be regarded as very generous tariff support at that time. Indeed, the contrast between the very positive support that is given in the Solar Strategy documents and the approach taken in the Ministerial Statements and the PPG is very clear.

7.4 One problem that has already surfaced at appeals since the NPPG is that the guidance makes no attempt to advise on exactly how one is expected to be able to carry out a sequential test where there is no limit on the area one is expected to look at, or the way in which whatever targets might be considered desirable at the national level are to be met when it comes to making an objective judgement as to the relative merits of different grades of land. If one looks at the site determined by Inspector Ord in Suffolk<sup>45</sup> this becomes clear. She clearly struggled with the question as to how one draws the boundary of the area to be searched. Whereas it was being suggested to her that the options for brownfield sites in the relevant District were

minimal she mooted the idea that the developer should at least have included one other District in the search, without any logical basis for such an assertion. Indeed, the stance she was looking at has been taken to an even higher level by Inspector Thickett in Swale in Kent in another appeal case<sup>46</sup>. He noted that much of Swale was actually Grade 2 land but suggested that one might need to look across southern England to see if lower graded land might be found elsewhere. This is totally lacking any concept of the reality of the position, in a sector where it is not a question of finding the “best” site for the only solar farm that may be built in England, but one of literally hundreds of sites that would be needed if the figures in the Solar Strategy are to be feasible. Not only that, but it is an inevitable reality that much of the lower graded farmland is likely to be found in upland areas which are far more likely to be subject to landscape designations, or moorlands and wetlands where ecology designations are more likely to arise. The pressure to reach the net zero targets applies to all local planning authorities, whether or not they have declared their own climate emergency. As such any concept of searching for sites outside their own authority boundary would be unnecessary.

- 7.5 The problem here is that a sequential test has to be defined in policy at either national or local level to make it clear exactly how far to undertake a search and it will be very different for a largely rural and very extensive planning authority compared to one that is much more tightly constrained in its area.
- 7.6 The April 2022 decision for the Little Crow Solar Park in North Lincolnshire<sup>47</sup>, east of the Scunthorpe Steel Mills and north of the village of Broughton, on greenfield farmland. This involved an initial capacity of around 90MW although depending on the type of panel used it could eventually have an installed capacity of around 150MW, on 226ha of land. The farmland included 36.6ha of Grade 3a making up 16.3% of the total farmland used, but the applicant had not investigated alternative sites for the solar array (para 4.41) and the Council did not seek to argue that the proposals could have been sited on a brownfield or other previously developed site. It is interesting that at the Examination, the Inspector posed the question as to whether the figure of up to 90MW represented an effective use of the land in terms of the NPPF advice, but the Secretary of State did not consider that this justified a

rejection of the scheme. The conclusions of the decision letter on the farming issues were that:

*“4.53 The ExA consider that the use of 36.6ha of BMVL agricultural land would not have a significant effect on agricultural productivity in North Lincolnshire, the Applicant had sought to minimise significant effects on BMVL, there would be no unacceptable conflict with the relevant national and local policies, and as the use would last for around 35 years any adverse effects on agricultural land only weighs moderately against the proposed Development and are of insufficient weight to recommend the Order should not be made (ER 5.2.6 et seq). The Secretary of State agrees.”*

- 7.7 Another issue which has been mentioned in some appeals is the suggestion in the NPPG that ideally agricultural use should continue around the panels. In order to be able to carry on significant farming activity (arable production) “around the panels” you would need to spread the array out a great deal more and hence you would need a much larger site in order to get the same number of panels. However, in the present case what is being proposed is a mix of renewable energy development, the potential for limited grazing around the panels and biodiversity benefits.
- 7.8 The National Policy Statements refer to the fact that renewable energy developments are in the main entirely reversible, and that for some landscape and visual effects the decision-maker must give this important weight. We are not losing agricultural land in a permanent sense; as demonstrated in the ES there is evidence that soil fertility improves during a period of non-arable use and this site will be able to be re-used with higher levels of fertility at some time in the future after being “borrowed” for the lifetime of the array.
- 7.9 In the present case, the material in the ES shows that a detailed ALC study of the site and its immediate surroundings found that of the 101.9Ha of land surveyed, 14.9ha was Grade 3a and 87ha was Grade 3b (14.6% and 85.4% respectively). However, the detailed assessment of the proposed array reduced the total area of the

study area for development purposes to 64.3ha, of which Grade 3a accounted for 12ha and grade 3b 52.3ha (18.7% and 81.3% respectively). The map of the study area at Plate 4.3 of the ES on page 67 shows that the Grade 3a land is in two separate parts of the site – a small belt of land across the northern parcel with Grade 3b on either side of it, and an arc of land around the northern side of Bested Hill with again Grade 3b land on either side of it. Public footpaths run through both of the different parcels of Grade 3a which have some impact on their ability to be used for maximum output, and the Figure 1.2 site layout when compared with the Plate 4.3 map from the ES shows that areas of land have been omitted from the layout of the array to reflect this. The land in Grade 3a between Backhouse Wood and the top of Bested Hill has been left out, as has a broad swathe of Grade 3a land along the footpath in the northern field of the array. Leaving out the other areas of Grade 3a areas would not be likely to make them suitable for arable use on their own. The current proposal therefore takes marginally more land of Grade 3a as a proportion of the total site than the Little Crow site referred to above which was found to be, but is significantly less in terms of the gross temporary loss of Grade 3a land for the lifetime of the array than Little Crow (18.7ha against 36.6ha).

- 7.10 A more direct application of the guidance at national level in terms of how to judge the use of agricultural land as opposed to non-farming land can be found by looking at two appeal decisions in Ashford Borough itself. These both date from 2015 and are thus post the Ministerial Statements of 2013-14 but some time before the declaration of the Climate Emergency by the UK Government.
- 7.11 The first of these was for a 9MW solar farm at Dowle Street, Pluckley<sup>48</sup>, where the land was Grade 3 but the Inspector had no information as to whether it was Grade 3a or 3b or indeed a mix. In dismissing the appeal on 23 June 2015 he found that the proposal would give rise to significant landscape and cultural heritage harm. He noted that the land was not low-grade agricultural land and considered that sheep

grazing around and under the panels would be a relatively unproductive use, given its moderate to good quality. He went on to state:

*“24 The PSG has brought my attention to a former brickworks less than a mile from the site which is said to be over 20ha in area and to have been disuse for some time. However, I have no convincing evidence that it would be suitable or available as an alternative site. In any event, the policies I have referred to do not require an analysis of what brownfield land may be suitable and available in the area to be provided by the appellant, or any other form of sequential test. Nevertheless, whilst the site has the advantage of a close connection point to the grid, I have no convincing evidence that in this instance would justify a departure from the approach of directing large-scale ground-mounted solar voltaic farms towards previously developed and non-agricultural land that is not of high environmental value. I consider for these reasons that the proposed use would also conflict with national guidance in relation to the use of agricultural land for solar farms.”*

- 7.12 The second appeal was determined just four months later and came to an entirely different conclusion on the agricultural land values issue, as well as on landscape and other matters – Partridge Farm, Church Lane, Sellindge<sup>49</sup>. The site visit was made on 21 July and so the Pluckley appeal decision was fully in the public domain by that time. This site is even more relevant to the current proposal, since it is on land immediately to the east of Church Lane and thus lies to the north and east of the current proposal. This was marginally larger than Pluckley at 10ha and the Inspector disagreed with the Council’s claims that the land involved was a dominant landform of high sensitivity. The Council’s Committee Report on 16 July 2014<sup>51</sup> indicated that there had been no sequential test to establish that alternative sites had been explored, and therefore it had not been shown that the use of agricultural land was necessary – the applicant had therefore failed to show that the sequential test had been met, even though in that case all the land was Grade 3b. By the time of the appeal, it was



clear that the Appellant had carried out a sequential test as the inspector reported that:

*“10. The Council’s reason for refusal of the application referred to the land not being brownfield land and that there was no overriding justification for the solar farm. They acknowledged, however, in their appeal statement that ‘A sequential test has been carried out by the Appellant as part of the appeal process across Ashford Borough and Shepway District. This has demonstrated that there are no sites of sufficient size to accommodate a 10 megawatts productive capacity solar array on land of lower agricultural grade or brownfield site within the survey area...’. They have therefore accepted that their expressed concerns ‘...have been resolved.’ Furthermore, the thrust of government policy, whilst seeking first to direct solar developments to commercial roofspace and derelict land, is that this type of development should avoid using the best and most versatile (BMV) land. The development would be sited on Grade 3b agricultural land and would not thus take up BMV agricultural land, which is Grade 1, 2 and 3a land. Land parcels to the east of Partridge Farm, the sewage works and Partridge Plantation are not suitable for solar development for a variety of reasons.”*

- 7.13 While that survey for alternative sites was carried out nine years ago, it covered the whole of the southernmost part of Kent including not just Ashford Borough, itself an extensive local authority area, but also Shepway to the south and east which stretches from Folkestone across to Rye and includes the whole of Romney Marsh. If no suitable site had been found for a 25 hectare solar farm of 10MW, it is improbable to say the least that repeating the exercise seven years later for a solar farm of 49.9MW on around 65 hectares could yield a different result as far as the availability of alternative brownfield or land within grades 4 and 5 is concerned. The only difference with the current proposal is that it includes some 12 hectares of Grade 3a land as well, but as we can readily see from the Little Crow decision (and indeed the Cleve Hill decision which was actually in Kent) the inclusion of a proportion of

higher grade land does not necessarily alter the balance in benefits of the scheme, especially where very much larger benefits are being accrued.

## 8.0 **Planning Assessment**

- 8.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the relevant Development Plan, unless material considerations indicate otherwise. As far as material considerations beyond the development plan are concerned, where renewable energy projects are at issue, Government policy upon the matter is of particular relevance. Such policy, directed at the need to reduce greenhouse gas emissions, and move towards sustainable environmental energy practices, is clearly not just of national but international importance. An issue that arises is the balance that has to be struck between the Government's approach to renewable energy and the policy framework in place at a local level to deal with the anticipated issues arising locally from renewable energy. The Government has made very clear its commitment to both energy saving and renewable energy sources as ways of meeting its commitments to reduce emissions. Where proposals cannot be reconciled with adopted planning policies at local level, then the proper weight to be given to national policy assumes particular importance.
- 8.2 In this case, there is a Local Plan which addresses the need for renewable and low carbon energy development to meet their contribution to the national drive for reducing emissions, and which at the same time effectively rules out onshore wind energy unless provided for in neighbourhood plans. I propose to deal with the main issues in terms of the material which has been placed before the Council in the ES before assessing the degree of compliance with the policies which have been highlighted in this Statement.
- 8.3 Subsequent to the submission of the planning application, in response to comments received from consultees and in discussions with the LPA, further Supplementary Environmental Information (SEI) was submitted in support of the East Stour Solar application in January 2024, the findings of which were to be read alongside the ES.

The SEI also considered the information which had become available during the planning process regarding the nearby developments, namely:

- the Pivot Power Battery Energy Storage Site (BESS) (Consented, ABC planning reference PA/2022/2544) (considered within the ES in general terms, but without the detail available in application PA/2022/2544);
- the Sellindge Grid Stability Facility (GSF) (Consented, ABC planning application PA/2022/2950 - also referred to within that planning application as a Synchronous Condenser Plant (SCP) with ancillary infrastructure, access, landscaping and other incidental works); and
- the pre-application NSIP Stonestreet Green Solar.

### 8.3 **Issues of landscape and visual effects**

8.3.1 The conclusions of the landscape consultants on the significance of the landscape and visual effects are set out in detail in the Landscape and Visual Impact Assessment.

The consultants have considered:

- The effect on the local and wider landscape in terms of viewpoints and the ZTV analysis;
- The effects on landscape designations;
- Cumulative effects;
- Visual effects;
- The effect of the proposal on residential amenity in the area; and
- The effects on recreation.

8.3.2 There is unlikely to be any dispute that the introduction of a solar farm into an area will result in a degree of change to that landscape, although the nature of the effects of this form of renewable energy development is very different to those arising from,

say, a wind energy scheme, where the landscape and visual effects can be significant up to several kilometres and the turbines may still be in the “prominent” category for well beyond that. Whether the receptor views change as positive or negative is a matter of subjective judgement for each person, but the reality of the national policy advice is that it in no way presumes against the principle of renewable energy development on the grounds that there will be change and that some people affected by that change will regard it as an unwelcome one.

- 8.3.3 The consultants reached their conclusions on the landscape and visual effects of the proposal having regard to the extensive research they have carried out using the standard Landscape and Visual Impact Assessment (LVIA) approach and consideration of the published landscape character assessments. The purpose of the approach is to identify the potential for significant effects, and there is no assumption in the process that merely by identifying significant effects there is some presumption of unacceptable harm, or that if the effects are adverse these should result in the rejection of the proposal. It is also important to note that the viewpoints selected in consultation with the Council are intended to show the realistically worst-case scenarios from locations at different distances away from the site, rather than suggesting that all localities within a similar distance will be equally affected, or that all places along a route would provide the same degree of impact. Notably, the Zone of Theoretical Visibility (ZTV) is precisely that – the **theoretical** areas from which there is some visibility of the array (without the effects of existing screening). The ZTV is a bare-ground approach and cannot take account of the extent to which the array is screened by existing built form, vegetation or, just as important, proposed hedgerow and tree planting that is being undertaken to mitigate the possible effects on visual amenity. The material in Volume 4 of the ES demonstrates through photographs and photomontages the lack of visibility of the scheme from many of the available viewpoints. The need to carry out a balancing exercise assumes particular importance, since all renewable energy developments will have effects and these have to be set against the wider benefits that accrue from such developments. While there would be a moderately significant adverse change on a localised basis within an area of a few hundred metres from the edge of the site, prior to the introduction of mitigation and

enhancements to the landscape character of the site during the construction and operational phases, the effects on the landscape and local residents will be mitigated over time and the site will in due course be returned to its former character with only the additional enhancements to show where it once stood. The very localised significant changes to the character and appearance of the area are a key factor in favour of this development in the overall planning judgement.

- 8.3.4 The assessment of the Local landscape Character areas is complicated by the presence of two different studies - one for the whole of Kent dating from 2004 (11.30 of the ES) identifies the site as being towards the eastern end of the extensive linear Upper Stour Valley LCA (which also covers the whole of the Sellindge Solar Farm site adjoining) and a small area inside the Mersham Farmlands to the north. The other, dating from 2005, covers Ashford Borough and subdivides the county-wide LCAs into a number of smaller elements. On this study, the site falls primarily within the East Stour LCA, along with the Sellindge Solar Farm, with a small element in the Evegat Mixed Farmlands LCA. Obviously the smaller you make a LCA, the more likely it is that a development within it can have effects on the wider character of the defined area, but it is notable that the inspector who determined the Sellindge Solar Farm was dealing with the same LCA from the Ashford study as in the present case, and did not find that significant harm on landscape character of the area to warrant rejection of the proposal. Indeed, he noted that while the Ashford Study had identified the sensitivity of this LCA as “high”, it did not indicate what types of development the landscape would be sensitive to, and therefore contended that the proposal had to be considered on its own merits (para 6). The LVIA concluded that the limited EIA significant effects on either of the host LCAs taken as a whole would not result in any of the existing key characteristics being lost or changed. And over time these changes would diminish as the mitigation proposals establish and reach maturity. The assessment of the landscape character areas addressed in the ES indicates that there is capacity in the LCAs for solar energy developments of appropriate size, and the landscape assessment from the different viewpoints confirm that this is an appropriate location for this development in terms of the extent of visibility and the effects on landscape character from the limited areas where it can be seen.

- 8.3.5 As far as landscape designations are concerned, there are parts of the Kent Downs AONB lying to the north, east and south of the site. There is minimal visibility of the proposal from within the area to the south near Aldington, and even less in the area to the east which are over 5km away from the centre of the site. There are some views available from the top of the scarp to the north at distances of over 4.6km away, and even here this depends on intervening vegetation allowing glimpses of the array. Here the views such as they exist will be of part of a wide panorama and the effects have not been found to be significant in EIA terms (see paras 11.98-11.100 of the ES). The intentions of designation of the AONB would not be compromised.
- 8.3.6 In terms of cumulative effects, the LVIA assessment has identified the Sellindge Solar Farm on the east side of Church lane as the only consented or built solar farm within the study area. It concludes that due to the nature of the site and surroundings of the Sellindge array, there would not be significant cumulative effects with that array (which is about one fifth the size of the East Stour proposal). The Assessment did not identify significant cumulative effects on site features, landscape character or visual amenity if the current proposal was to be added to the Sellindge site. There is also a proposal for a much larger solar farm (above the Nationally Significant Infrastructure Project (NSIP) threshold of 50MW being put forward to the south-west of the current application lying between it and the village of Aldington. This has been the subject of public consultation in recent months, post the preparation of the ES and submission of the East Stour scheme, but is not planned to reach the submission stage until the 2024. As such its detailed layout was not confirmed to enable it to be assessed under the cumulative process within the ES. although it will need to have regard to the East Stour Solar Farm as a project in planning when it makes its own submission to the DBEIS. The East Stour cumulative assessment with the Stonestreet Green PEIR layout has been presented as Supplementary Environmental Information (January 2024) and is considered later.
- 8.3.7 On visual impacts, again the topography and the limited height of the structures which carry the solar panels limit the number of houses that would have views of the solar farm. The nature of the network of lanes and roads in the area means that it is visibility

from Church Lane that is the only vehicular route that is likely to be critical. There are only two short sections of the road where there are panels proposed on its west side, where new screen planting is proposed to be undertaken, and the roadside hedges will be reinforced and allowed to grow up to about 1.5m. On the east side, the fields south-east of Bested House which are proposed as part of the array have the panels set back in line with the edge of Partridge Plantation. Here, due to the current hedgerow trimming the array will be visible for a distance of around 400m, but along the flank of the array, mitigation planting as shown in Viewpoint 3B along what is the back of the panel array will mitigate this impact over the initial ten years following the planting being carried out. For residential properties, the degree of separation from the edge of the array, orientation of the properties and the extent of existing vegetation do not indicate that for any property the visual impacts of the development would be such that they are sufficiently adverse to warrant a refusal of planning permission for the development.

- 8.3.8 In respect of the issue of recreation, the area around the site has a number of PROW, including footpaths and bridleways, spreading out from neighbouring villages. However, there is no bridleway or byway (i.e. routes that may be used by horses and cyclists) crossing any part of the array. One path crosses the northern part of the array lying between the M20 and the railway, and the path will be retained within a corridor of 10-15m in width, with the panels set back on each side a further 4-5m. This route then continues along the edge of the M20 embankment with the panels on its southern flank (and thus facing away from the walker) finishing up at Church Lane. A spur off this loops back round the southern side of the array, re-joining the path near Park Wood Cottage to the west, but is set much further back from the panels with some intervening screening already established. Another path between Bested Hill and Backhouse Wood lies to the west of the largest part of the array, centred on Bested Hill, but in this case, the decision was made to exclude the whole of the parcel within which this path runs along the side of the Wood, and to provide a new hedgerow along the edge of the array where the path is closest to it. There is a third path which cuts across two distinct parts of the array to the south-west of Partridge Farm over a distance of about 750m and here again it is proposed to retain a corridor through the

array with the panels set back again 4-5m from the corridor. It is accepted that there will be some visual impacts to walkers in the cases where footpaths cross open fields. However, with protected corridors and set-backs on either side the effects would not be oppressive to the extent of making the use of any of the routes unpleasant for recreation. In other locations further away the effects are significantly reduced by distance and screening and where some views may occur, new mitigation planting is proposed. It is not considered that the general enjoyment of uses of PROW on and in the vicinity of the site would be unreasonably diminished by this proposal.

8.3.9 Any solar farm of this extent will have some impact on its surrounding landscape because of its intrinsic scale and features. However, the character and attributes of the host landscape have been recognised and it is considered that the effects on that landscape do not justify rejection in policy terms - again noting the very localised effects that would arise. The changes that have been made to the layout following consultant advice and the response from the public and consultees, together with the extensive planting mitigation has also reduced markedly the potential for adverse effects to arise.

#### 8.4 Issues relating to nature conservation

8.4.1 The ES has comprehensively addressed issues relating to all relevant aspects of ecology on and surrounding the site. There are no sites with international or national ecology designations within the site or survey area and no harm predicted to any such area. Work to retain and strengthen hedgerows throughout the site would enhance the potential for bat and bird use and timing of the construction to avoid ground nesting birds would also be adopted. The land under the panels would be reseeded for sheep grazing. The ES addresses a very wide range of species and habitats. It identifies issues that may arise during the construction and operational phases of the development, and in particular sets out measures which will enhance the biodiversity of the site overall. Based on the assessment detailed above, it was concluded that, subject to successful implementation of the avoidance and mitigation enhancement measures outlined in the ES Chapter, overall, the proposal is considered likely to have a



neutral impact, at a local scale, on the ecology of the Site, with some minor benefits in terms of soil values, trees, water bodies, bats, birds, dormice, and reptiles. On the site, there would be 2.2km of new species rich thick hedgerows, 1.5km of enhanced hedgerows and 1.1ha of woodland planting. We do not consider there to be any ecological issues identified that have the potential to conflict with local planning policy or national guidance under NPPF and so warrant rejection of the proposal, indeed effects were generally found to be of minor or negligible significance. The provision of best practice and proposed enhancement measures will result in a positive net gain to the ecology of the site overall.

The SEI identified no additional significant effects.

## 8.5 Issues relating to cultural heritage

8.5.1 The Report on heritage assets has examined a range of cultural heritage assets, both designated and undesignated, on and around the application site. The visibility of a solar farm is limited by the very limited height of the development, and as such the extent to which it can intrude into views of or from heritage assets and their settings is very limited. There are no designated assets on the application site itself and the ES chapter on archaeology and cultural heritage identified an area west of Church Lane which had high potential for a prehistoric occupation centre. As a result this area was excluded entirely from the array. The assessment identified designated heritage assets within the study area that required further assessment, these being Aldington Conservation area; the Grade 1 listed Church of St Martin at Aldington (within the conservation area); the Grade II\* listed Court Lodge farmhouse; and the Grade II\* listed Evegat Manor.

8.5.2 In the case of the conservation area, the assessment concluded that there was no intervisibility between the designated area and the solar farm array due to distance, intervening built form and tree-screening. For the Aldington church, there are no

views from the church or its surroundings towards the application site, and while there are views from Bested Hill and the south-eastern boundary of the application site, which enable a viewer to appreciate the church from a distance, these are not designed views. There is therefore only a minor effect that is not significant in EIA terms and is at the lowest level of potential harm as defined in the NPPF and the NPPG.

8.5.3 For Court Lodge farmhouse, its rural and agricultural context forms the context for the farmhouse, but the structure of the farming landscape would remain intact – it has not formed part of the ownership of the farmhouse for over 70 years in any event. The assessment concluded that the application site made a neutral contribution to the setting of the heritage asset which had negligible sensitivity to the proposed development.

8.5.4 Finally for Evegate Manor, the assessment noted that only the top of the chimney stacks at the Manor can be glimpsed from the application site itself, and due to vegetation and topography there would be no view of the application site from the house. Again as with Court Lodge farmhouse, the assessment concluded that the application site made a neutral contribution to the setting of the heritage asset which had negligible sensitivity to the proposed development.

8.5.3 A separate issue arises with the potential presence of buried archaeological remains on different parts of the site. The initial survey work and assessment, suggested a low potential for there to be buried archaeological remains, outside the part of the site that has been excluded along Church Lane, that could be sensitive to the physical impacts of the development proposed. Trenching of a sample of the site area was subsequently undertaken. This will inform the strategy to be developed with the Council to mitigate the possible effects of the development on any buried remains.

The SEI identified it is possible that a level of cumulative impacts to the Grade I listed Church of St Martin, the Grade II\* listed Court Lodge Farmhouse, and as a result to the Aldington Church Area Conservation Area, may arise through a combination of the East Stour and Stonestreet Green development schemes.

Based on the current knowledge cumulative impacts from the development of the application site and the Stonestreet Green Solar site on the ‘barrow cemetery to the south-west of Barrowhill, NHLE 1475132’ setting are not anticipated.

## 8.6 Transport and access

8.6.1 The access route for delivery of the solar farm components was identified from the M20 at junction 10a down the A20 Hythe Road as far as Church Lane. There would be two access points off Church Lane, one just south of the M20 underpass to reach the northern parcel, and the other just south of the railway which would serve the main block of land around Bested Hill and thence via a crossing of Church Lane the other two parcels between Church Lane and Partridge Farm. It is noted in the ES (para 8.76) that the off-site route to reach Church Lane is not the same as for the Sellindge Solar farm, which approached from the A20 westwards from Folkestone, rather than westwards along the M20 and then back eastwards along the A20.

8.6.2 The peak flows of HGV movements are associated with the delivery of the solar panels and in the worst-case scenario in the construction programme this would amount to an average of about 12 single HGV movements a day. While this is above the figure of 30% of current HGV use of Church Lane, which triggers the finding of a significant effect, this is mitigated by the fact that the section of the road to be used is relatively short from the A20 junction. The comparative figure for HGVs on the A20 as a proportion of current HGV traffic is negligible. Traffic management measures will be put in place on Church Lane to manage HGV movements and to avoid construction traffic travelling through nearby villages, all HGV traffic will be required to use the specified route to reach the site. No construction traffic will be allowed to use Church Lane south of the highway crossing mentioned above minimising any potential impacts or cumulative impacts.

## 8.7 Noise

8.7.1 In terms of construction noise, given that there are properties in fairly close proximity to parts of the site, the noise levels are considered differently from those for the operation of the solar farm. The worst-case property in this respect is Partridge Farm, at 91m from the nearest frame structure, which is an involved property, followed by Bested House at 165m, but even here the predicted figures fall within the noise criteria for daytime, evening and weekend working on the site. As noted in 8.3.7 above, the predicted rating noise for all properties when operating at 100% capacity is met at every one apart from Bested House where there is an exceedance of 1dB due to the application of a 2dB tonal noise penalty precaution. However, the 32dB<sub>L<sub>ar</sub></sub> limit that has been set is based on the WHO guidelines to protect from sleep disturbance, and the solar farm would only reach 100% capacity during full sun in daytime. Operating solar farms are not inherently noisy installations and the panels themselves create no noise emissions. The inverters and transformers do have low levels of emissions, and this electrical equipment is containerised. However, the maximum generation capacity of the site occurs around the middle parts of the day and for the quieter parts of the day (before 07.00 and after 17.00) the solar array will only be generating at lower capacities and for only parts of the year in the daylight. The noise assessment has adopted a target figure of 32dB L<sub>aeq</sub> for noise from the solar farm at all residential receptors based on World Health Organisation recommendations for night-time sleep disturbance and the indicative noise contour plot shows that no property falls within this contour noise limit. Noise from the operation of the solar farm is not likely to be audible at any property against the prevailing noise climate in the area, especially as the two closest properties lie on the far side of a busy main rail line.

8.7.2 Cumulative noise levels are predicted to be below the background noise for this assessment. Since cumulative noise levels are below the background noise, a low impact, subject to context, is predicted according to BS 4142.

8.8 Flood Risk

- 8.8.1 The drainage assessment sets out that the whole of the application site development area has been set at above 51.3m AOD in agreement with the Environment Agency to minimise risk of fluvial flooding in Flood Zone 2. To reduce the risk of increased runoff from the site to receptors off-site, extensive planting on-site and a Sustainable Urban Drainage System, linked to new swales to contain surface water run-off will be employed.
- 8.8.2 The SEI identified no significant cumulative impacts.
- 8.9 Glint and Glare
- 8.9.1 The report on glint and glare identified properties, road and rail routes, and airports/airfields where glint and glare might occur. Only one property was identified where existing vegetation and mitigation planting would not eliminate the potential for effects to occur and even in that case the effects were not considered to be significant. Similar planting is proposed for locations where road receptors might be subject to glint and glare. Following more detailed assessment it was concluded that no significant effects would arise for rail or aviation users.
- 8.9.2 The SEI identified no cumulative impacts.
- 8.10 Assessment against the development plan
- 8.10.1 The starting point for the determination of this application under Section 38(6) of the Planning and Compulsory Purchase Act 2004 is the Development Plan for the area. In this case, there is an adopted local plan for Ashford Borough but at present no Neighbourhood Plan for either of the parishes concerned (Aldington and Smeeth). In the absence of any explicit or indeed implicit support for onshore wind, and the lack of potential for hydro schemes in the Borough, it is inevitable that the stated desire for new renewable energy developments, certainly through strategic stand-alone schemes within the District, is likely to focus on solar. While the Development Plan has to be read as whole, it is usual to find that there are key policies within it which have

particular relevance to a specific form of development and as such these constitute the dominant themes for the decision-making process. In the present case, the key policy which needs to be addressed is ENV10.

#### 8.10.2 **Policy ENV10 Renewable and Low Carbon Energy**

8.10.2.1 The policy supports the delivery of renewable energy generating development such as this in the context of sustainable development and tackling climate change which is set out elsewhere in the plan such as at SP1. It is a permissive policy allowing for schemes to be permitted if they meet the four criteria set out. Criterion (d) deals with the need for effective engagement with the public and the Council and the way in which this has been met is set out in detail in the ES. Criterion (c) requires provision to be made for decommissioning of the infrastructure once the operation has ceased including the restoration of the site. This is provided for in the ES but in any event it is the usual practice for it to be handled by a condition on the planning permission to require a scheme of decommissioning and restoration to be submitted, approved and carried out at the end of the life of the array. Criterion (a) deals with the avoidance of significant adverse impacts on the landscape, natural assets, or historic assets having regard to nationally recognised designations and their settings. It has been identified that there are no significant adverse effects on any ecological designations or interests, nor are there any on cultural heritage assets whether designated or undesignated, or their settings. No significant effects on any part of the AONB of the Kent Downs has been identified.

8.10.2.2 This leaves as a main issue the effects on the landscape outside the AONB. It has been noted that the Council refused planning permission for the Sellindge Solar Farm, next to the present site, on the grounds of significant adverse impacts on the landscape, but that this was rejected as a reason for refusal by the inspector who conducted the subsequent appeal. The current site lies for the most part in the same Landscape Character Area as the Sellindge Solar Farm, and while covering nearly three times the area (but with five times the predicted output) it benefits from many of the landscape characteristics that made the Sellindge Solar Farm acceptable. No renewable energy scheme is ever likely to be able to demonstrate that there are simply no significant

effects arising from their installation, and an EIA taking the worst-case scenario will tend to have the assumption that significant landscape and visual effects are likely to be adverse. What needs to be taken into account is how such effects are to be balanced against the wider benefits of the scheme, and it is perhaps notable that nowhere in the policy is there any provision for such a balancing exercise to be undertaken. Indeed, it is interesting to note the findings of an Inspector on a very recent appeal for a scheme of exactly the same scale in Nottinghamshire at Halloughton, Southwell in Newark and Sherwood on 18 February 2022<sup>54</sup>. He was looking in particular at the effects of the scheme in the first ten years before the planting was fully mitigating the effects and noted at para 22 that such adverse impacts cannot be avoided, going on to say:

*“Thus the weight I attach to these early effects is limited. As François Athenase de Charette de la Contrie is reputed to have said ‘...you cannot make an omelette without breaking a few eggs’.”*

The ES and SEI conclude that the effects on the character and appearance of the landscape are highly localised and overall the extent of significant cumulative effects on landscape character and visual amenity would be very contained. There are highly localised effects on the landscape character of the site and a very limited area around it, as well as on the users of some of the footpaths across and adjacent to the site but not to the extent that they create a justification for the refusal of the application. The benefits of the scheme always have to be taken into account in balancing it against any harm that is identified, even if they are not addressed directly in the policy, and this is explicitly set out in para 9.97 of the text of the Local plan – itself part of the adopted Development Plan along with the policies. Finally, in respect of criterion (b), the scheme does not generate an unacceptable level of traffic or loss of amenity to local residents through visual impact, noise, disturbance or odour.

8.10.2.3 The above considerations feed through into the other policies identified from the Plan. SP1 seeks to provide a number of strategic objectives, chief amongst which are the desire to protect the natural and historic environment, manage flood risk and tackle climate change. The tests in respect of all of these aspects are to be found in ENV10 and so no separate assessment of SP1 is needed. SP6 is concerned with design,

although application of design standards to a solar farm are not strictly apposite. It is the site topography and its context which determine whether a design for a solar farm is acceptable. SP7 is concerned with the erosion of gaps between settlements, but again this is not something that is directly applicable to this solar farm since it does not occupy a crucial gap that fulfils a function of separating two neighbouring settlements. TRA7 on the road network and development is satisfied in this case as the proposed development is not going to involve levels of traffic movements that would create either initial or residual severe impacts. Mitigation measures have been put in place to address all the implications of the proposal.

8.10.2.4 ENV1 on biodiversity is met in that there are no significant adverse effects identified arising from the development in respect of all aspects of biodiversity – indeed there will be significant net gain as a result of the conversion of arable land to a solar farm, and the additional planting of hedgerows and woodland on the site. Policy ENV3a is met as the proposal has had regard to all the criteria identified in the policy as regards design in the landscape to achieve a best-fit of the solar farm to the host landscape. Similarly for ENV5, the proposal does not compromise any of the list of important rural features that are set out in the policy. In respect of ENV6 on flood risk, and ENV9 on sustainable drainage, the proposal has incorporated measures agreed with the Environment Agency to avoid flood risk, together with a range of design and mitigation features within the layout to address surface water run-off. Finally on ENV13, 14, and 15 on heritage assets of different forms, the EIA has found that there are no significant adverse effects predicted to arise in respect of any heritage asset.

### 8.10.3 **Other planning documents**

8.10.3. The 2013 Guidance Note on Solar is of limited policy value, quite apart from not being part of the adopted Development Plan. Its suggestions about the way in which agricultural land value should be a driver for determining the acceptability of sites was prepared at a time when few solar farms extended to much more than 10 hectares. The movement at national level to demand a five-fold increase in solar energy over the next 13 years when compared to what has been achieved over the last twenty years demonstrates that exclusion of all land above Grade 3a almost as a matter of general



principle is no longer tenable. We already know from the material provided for the Sellindge Solar Farm appeal in 2015 that sequential testing of the whole of Ashford and Shepway Council areas could not identify a single site of 25 hectares for that solar farm of brownfield or lesser agricultural value. Not only is the current proposal a developable area of over 65 hectares but the evidence from recent decisions made at the strategic level by Government (such as Cleve Hill and Little Crow) is that the inclusion of an element of Grade 3a land is acceptable in the context of the size of site needed for a major solar farm and the availability of grid connection and capacity.

## 9.0 **Conclusions on the policy issues**

9.1 While it is recognised that there are some landscape and visual effects arising from the development, these have been identified as being very localised in the area immediately around the site, with the potential for mitigation against immediate visual effects through filling small gaps in hedgerows and new planting of both hedgerows and woodland. No other issue has been identified which militates against the proposal. This Planning Statement has been able to demonstrate the limitations on land available and the idea that there are literally thousands of suitable sites for solar panels available on brownfield sites and house roofs is something of a myth. It is also highly relevant to reflect on the fact that the absence for many years of any national financial support for solar power has led to the need for larger-scale solar farms in order to extract economies of scale. Since the grid capacity in any area is a finite resource, the availability of a site with a grid connection close to the site, and also the available grid capacity without any need for grid reinforcement, become very compelling arguments in favour of selecting a site with such attributes – as are found here.

9.2 In all planning decisions on renewable energy developments there are balancing judgements that have to be made. The significant weight to be attached to the Government's national energy policy, as set out in 2021's Energy White Paper, the 2022 Energy Security Strategy, 2022 Growth Plan, 2023 Powering Up Britain policy paper and to the NPPF, has to be brought into the balance and is a compelling factor

supporting an approval. This balancing exercise has been undertaken for a large number of solar farms as the drive to deliver this sector has gathered pace.

- 9.3 The process of assessing the weight to be given to the local development plan and national energy policy in this case is very much simplified by the assessment of the individual topics that has been undertaken, provided in the individual assessment submissions and reviewed in this Planning Statement. Based on the planning assessment that has been undertaken, and the benefits of renewable energy identified in transitioning to net-zero, it is concluded that this proposal is consistent with the development plan for Ashford Borough and it derives support from the NPPF and PPG and most importantly the up to date national advice on energy when they are read as a whole. Accordingly, the Council is invited to approve the application.

## **References**

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- 3 UK Government Climate Change Programme 2006
- 4 UK Government Renewable Energy Strategy 2009
- 5 UK Government Renewable Energy Roadmap 2011
- 6 UK Government Renewable Energy Roadmap Update 2012
- 7 UK Government Renewable Energy Roadmap Update 2013
- 8 EU Directive 2009/28/EC
- 9 EU 2030 Climate and Energy Framework 2014
- 10 UK Government Energy White Paper 2007
- 11 UK Government Climate Change Act 2008
- 12 UK Government National Planning Policy Statement EN-1
- 13 UK Government National Planning Policy Statement EN-3

- 13a UK Government Consultation draft of EN-3 replacement 2021
- 14 UK Government National Planning Policy Framework 2021
- 15 UK Government Low Carbon Transition Plan 2010
- 16 UK Government National Renewable Energy Action Plan July 2010
- 17 UK Government Public Opinion Tracker Wave 37 published Winter 2021 <https://www.gov.uk/government/statistics/beis-public-attitudes-tracker-winter-2021>
- 18 UK Government Solar PV Strategy Part 1 October 2013
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- 23 Department for Business, Energy and Industrial Strategy (BEIS) – UK Energy in Brief 2018
- 24 Department for Business, Energy and Industrial Strategy (BEIS) – Energy and Emissions Projections 2019
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- 31 Department of Business, Energy and Industrial Strategy (BEIS) – press release 7 October 2021 on fully decarbonising UK power supply by 2035
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- 33 Examining Authority Report into Cleve Hill Solar Farm, Swale Borough 28 February 2020
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- 40 Ashford Borough Council Per-Application Response 22 June 2021
- 41 [http://www.solarpowerportal.co.uk/news/brownfield\\_solar\\_is\\_a\\_myth\\_](http://www.solarpowerportal.co.uk/news/brownfield_solar_is_a_myth_)
- 42 High Court decision letter in respect of Derbyshire Dales DC and Peak District National Park, v Secretary of State in respect of Carsington Pastures Wind Farm appeal decision.
- 43 High Court decision in respect of Ellough Airfield Solar Farm CO/17111/2013, Suffolk
- 44 Redetermination letter from DCLG for Ellough Airfield
- 45 Planning appeal decision Valley Farm, Wherstead, Suffolk – APP/D3505/A/13/2204846
- 46 Planning appeal decision at Littles Farm, Swale, Kent - APP/V2255/A/14/2212592
- 47 NSIP Decision at Little Crow Farm, Lincolnshire 2022, 5 April 2022
- 48 Appeal decision – Pluckley, Ashford Borough APP/E2205/A/14/2215733
- 49 Appeal decision – Sellindge, Ashford Borough Council APP/E2205/W/15/3003125
- 50 Committee report for Sellindge Solar Farm, Ashford Borough Council 16 July 2014
- 51 Appeal decision – Enifer Downs, Dover APP/X2220/A/08/2071880
- 52 Appeal decision – Carland Cross, Cornwall APP/D0840/A/09/2103026
- 53 Appeal decision – Burnthouse Farm, Fenland APP/D0515/A/10/212373951