James Bailey PLANNING

Proof of Evidence – Planning

On behalf of Babergh District Council

STEVEN STROUD BA(Hons) LLB(Hons) MA MRes MSc MSt MRTPI

Appeal Reference: APP/D3505/W/25/3370515

Appeal under Section 78 of the Town and Country Planning Act 1990 in respect of:

"Construction of a solar farm (up to 40MW export capacity) with ancillary infrastructure and cabling, DNO substation, customer substation and construction of new and altered vehicular accesses.'

Site address: Land at Grove Farm and Land East of the Railway Line, Bentley

Appeal by: Green Switch Capital Ltd

December 2025

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1. QUALIFICATIONS AND EXPERIENCE

1.1 My name is Steven Andrew Stroud, and I am a chartered town planner (MRTPI). I hold undergraduate honours degrees in History and Law and a master's degree (MSc, School of Geography and the Environment) from the University of Oxford. I hold a further master's degree (MA) in Town and Country Planning from the University of the West of England and was awarded a master's degree through research (MRes) by the University of Salford in respect of an extended inquiry into the effects of public art as a tool for place making. I recently graduated with an IHBC-accredited MSt degree in Building History from the University of Cambridge.

1.2 I have managed an extensive range of planning application types and proposals, including large-scale (>1000 dwellings) mixed-use urban extensions, brownfield regeneration and >1 million sq. ft enterprise parks, leisure (including 'SnOasis': once proposed to be Europe's largest indoor winter sport resort), retail, renewable energy, specialist accommodation, and other development of varying scales.

1.3 I am currently Associate Director at James Bailey Planning; a specialist planning consultancy working for national and regional housebuilders and promoters, other private clients, and the public sector. Prior to this I was the acting Chief Planning Officer for Babergh and Mid Suffolk District Councils, having previously managed their Strategic Projects team for several years, latterly holding the post of Strategic and Professional Lead – Development Management and Heritage.

1.4 I have appeared as an expert witness at numerous public inquiries and hearings.

1.5 The evidence that I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions.

2. SCOPE AND STRUCTURE OF EVIDENCE

2.1 In this proof of evidence ('Proof') I present planning evidence for the local planning authority, Babergh District Council ('Council'), in response to an appeal submitted pursuant to section 78 of the *Town and Country Planning Act 1990* ('principal Act') by Green Switch Capital Ltd ('Appellant'). Accordingly: I identify the relevant planning policy framework for this appeal, assess the proposed development against the most important planning policies for its determination, and reach conclusions as to whether the appeal scheme accords with the development plan as a whole, and whether other material considerations indicate that a decision should be made other than in accordance with that plan.

2.2 I was not the case officer responsible for managing the application subject to this appeal. However, in my previous employment I was aware of the proposal during its determination, and I have local knowledge of the area. Before deciding to act in this appeal, I reviewed the application documents alongside the officer's report ('OR') and satisfied myself that the Council's position was robust in planning terms and that I would have reached the same conclusion myself.

2.3 Therefore, whilst I did not author the OR, I understand the background to the appeal and having considered the application documents and the analysis of Mr. Handcock and Ms. Bolger I fully support the Council's case.

2.4 My Proof should be read in conjunction with the evidence prepared by:

- **Laure Handcock MA MSc IHBC** of Iceni Projects, who provides evidence on heritage matters.
- **Michelle Bolger BA(Hons) BA(Hons) PGCE Dip.LA FLI** of Michelle Bolger Expert Landscape Consultancy, who provides evidence on landscape matters.

2.5 I have relied upon their evidence in the preparation of this Proof, which is structured as follows:

i. Section 3 sets out relevant background information and a summary of the main issues to be considered at the Inquiry, and the scope of my evidence in relation to those identified issues.

ii. Section 4 covers relevant statutory duties and the planning policy context, which is where I also set out what I consider to be the most relevant development plan policies for the determination of this appeal and the weighting that I ascribe to them, alongside other policy considerations.

iii. In section 5, I consider the main issues for the appeal, relevant to the scope of my evidence, and the extent to which the appeal scheme complies with local and national planning policy. In this section I consider the public benefits of the development as a material consideration and deal with the heritage balance.

iv. In section 6, I set out my conclusions and carry out the overall planning balance. This section can be read as a summary of my proof.

2.6 This Proof has been prepared having regard to The Planning Inspectorate's *Procedural Guide: Planning appeals – England* ('Procedural Guide', December 2025), and to the Inspector's post Case Management Conference ('CMC') note.

3. RELEVANT BACKGROUND AND MAIN ISSUES

Site and Surroundings; Proposed Development

3.1 A description of the site and the proposed development is set out in the OR (**CD-A40**) and the Statements of Common Ground ('SCG') on landscape, heritage, and general planning matters (**CD-C12**) that are being progressed and likely to be agreed before the Inquiry. The importance of the site in landscape and heritage terms is further dealt with in the evidence Mr Handcock and Ms Bolger.

3.2 The Appellant seeks to evolve the proposed development through this appeal by providing new plans, incorporating changes listed as amendments labelled A - E. It is not yet known if the Inspector considers that there are exceptional circumstances arising that would permit acceptance of those amendments (in accordance with the Procedural Guide (see its §16.2)).[1] However, as noted in the evidence of Mr Handcock and Ms Bolger, this does not substantively alter their findings.

The Bentley Conservation Area

3.3 Since determining the application, the Council has designated a Conservation Area within the parish of Bentley (the Bentley Conservation Area, 'BCA') and the appeal site falls wholly within the boundaries of that designation. It is common ground that this is a new material issue for the determination of the appeal (**CD-C12**) and that the statutory duty found at s.72 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* ('Listed Buildings Act') is relevant. This is therefore a duty in addition to the s.66 duty that already applied.

[1] Also see sections §16.1 thru §16.5.

As a consequence, and as noted by the Inspector in her post-CMC note, the Council has updated its first reason for refusal ('RfR') and that wording has been agreed in the SCG.

Grid Connection Offer and Alternative Sites Assessment

3.4 The Council and Appellant have agreed that at the time the application was determined the Appellant had a connection agreement with UK Power Networks with a connection date of no later than 2028 through a nearby high voltage electricity pylon. Of course, since the time of the application for that connection, there have been major reforms to the grid connection process, with the Energy Secretary Ed Milliband confirming that the previous 'first come first served' system was *"broken"* and confirming that the new system will *"clean up the queue"* (**Appendix A**). The new system facilitates more speedy connections for schemes which are ready to connect, and assesses readiness based on a 'gate' system whereby projects which have secured land rights or which have submitted/obtained planning permission will achieve 'gate 2' status and a place in the connection pipeline. Accordingly the aim and practical effect of the stated reform is to make it significantly easier to achieve a grid connection for projects which have been planned-for.

3.5 During the appeal process the Council has sought to engage with the Appellant to understand the current status of the above offer, notwithstanding connections reform. The Appellant in response has produced an almost entirely redacted copy of the Grid Offer letter (**CD-C13**). That is unhelpful because other than stating a connection date of no later than 1st March 2028, there is no other information available; for example, in relation to the milestones and terms of that offer and whether they have been met to date or indeed whether the same milestones continue to apply. The Appellant has refused to share this information, which I consider to be

unreasonable and not within the spirit of collaboration normally expected of parties to an appeal.

3.6 Regardless, in response to the connections reform process, I understand that the Appellant has made a submission to the National Energy System Operator ('NESO') under 'Gate 2' (as **CD-C14**). NESO has recently (8th December 2025) published an Existing Agreement ('EA') Register for all projects that applied for Gate 2 in the Connections Reform process (**Appendix B**).[2] It does not outline any outcomes or results of that process. The EA Register confirms the application made by the Appellant, albeit I observe that it states that the existing connection date is 31st October 2031, in nearly six years' time (entry no. 3225). The Council has repeatedly sought clarification on the Appellant's connection offer. Had they been willing to discuss matters then this discrepancy could have been clarified. It may be that more information will be forthcoming from them before the Inquiry opens.

3.7 Likewise, in respect of any offer to be made via 'Gate 2', the outcome and connection date are presently unknown but any offer is expected to be issued, based on the NESO timeline, before Q2 2026. Again, it may be that the Appellant can assist the Inspector in providing an up-to-date position when the Inquiry opens (but ideally as soon as possible; again, the Council has been trying to engage the Appellant to receive an update).

3.8 The parties have agreed that policy LP25 expressly requires that an Alternative Sites Assessment ('ASA') be carried out. The passage of time and designation of a Conservation Area necessitates a refreshed exercise being undertaken. The parties have sought to agree the methodology for that exercise (the 'ASA Addendum') with limited success. The Council twice offered to meet with the Appellant to collaborate and agree that methodology, but this was not taken up. Again, I find that surprising

[2] It is a large, excel spreadsheet document. For completeness and as a record, it is attached to this Proof, but it is only necessary to consult the relevant entry number and introductory statement at the top of the document.

and not in the spirit of cooperation I would typically expect, having been personally involved in a significant number of hearing and inquiry appeals.

3.9 The ASA Addendum was only received after chasing the Appellant on 15th December, three days after it was expected to be agreed. The Appellant's reasoning that they did not consider that it should have been sent to the Council or Rule 6 Party, being issued only to PINS on the evening of 12th December, is also unhelpful in the circumstances and limited time available within which to respond. That is not the behaviour I would typically expect in appeal where parties seek to work together.

3.10 I deal with the content of the ASA Addendum under Section 5, below.

The Main Issues for the Appeal

3.11 The likely main issues for this appeal have been identified by the Inspector following the CMC, as follows:

a. Whether or not the proposed development would preserve the setting of the following listed buildings: Bentley Hall (grade II*), the associated Meeting Hall Stables (grade II*), Bentley Hall Barn (grade I); St Mary's Church (grade II*); Maltings House (Grade II); and,

b. Whether or not the proposed development would preserve or enhance the character or appearance of the Bentley Conservation Area; and, whether there are material matters arising from its date of designation; and,

c. Whether there are any non-designated heritage assets which would be affected by the proposed development and if so the extent of any harm should it arise, (the NDAs identified are Falstaff Manor, Grove Farm, Potash Cottages, Red Cottages, Church Farm House and Barn, Bentley House, Glebe Cottage); and,

d. The effect on the surrounding landscape and its status having regard to: the proximity of the National Landscape and the 'Additional Project Area' (as a valued landscape), and the effects on users of public rights of way crossing or in the vicinity of the site; and,

e. The effect on the living conditions of local residents having regard to noise, glint, glare and visual impact; and,

f. The effect on Best and Most Versatile Land (BMV); and,

g. Whether the public benefits (which will need identifying and weighting) arising from the proposed development would outweigh the harms identified in respect of the above matters either individually or cumulatively.

3.12 Issues a., b., and c. are dealt with in the evidence of Mr Handcock.

3.13 Issue d. is addressed in the evidence of Ms Bolger.

3.14 It is my understanding that issue e. is relevant to the case of the Rule 6(6) Party, being 'Bentley Parish Council and Stop Grove Farm Solar' ('R6 Party').

3.15 Issue f. is also a matter most relevant to the R6 Party's case, but I deal with it as a material consideration as part of the overall planning balance.

3.16 This Proof therefore chiefly responds to Issue g., where for the reasons that will be explained it is my professional opinion that the appeal proposal fails to comply with the development plan and that the appeal should be dismissed, given that there are no material considerations which indicate that a decision should be taken at variance to the plan.

4. STATUTORY DUTIES AND POLICY CONTEXT

4.1 Within this section I provide an overview of the statutory duties directly applicable to this appeal and the planning policy context, which is where I set out the most important development plan policies for its determination and the weighting that I would ascribe to them.

Statutory Duties

4.2 Section 79 of the principal Act states that for the determination of planning appeals an Inspector may deal with the appeal as if the application had been made to them in the first instance. Section 70(2) of the same Act requires, in dealing with an application for planning permission that a decision taker shall have regard to the provisions of the development plan, so far as is material, and to any other material considerations.

4.3 S38(6) of the *Planning and Compulsory Purchase Act 2004* requires that applications for planning permission under the planning Acts be determined in accordance with the development plan unless material considerations indicate otherwise.

4.4 Sections 66(1) and 72(1) of the Listed Buildings Act are of direct relevance to this appeal. They are duties that have the force of statute and must be followed. They state that in considering whether to grant planning permission for development which affects a listed building or its setting, or is within a conservation area, the decision taker shall: have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses; and shall pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

4.5 The effect of those statutory provisions is that the desirability of preserving the setting of a listed building (or the character and appearance of a conservation area) must be treated as a matter of 'considerable importance and weight', with such duties regarded as presenting a 'strong presumption' (and in this appeal a statutory rather than just policy based one) against a grant of planning permission where harm to a designated heritage asset is identified.[3] Such duties are clearly not to be discharged without the greatest of care.

Development Plan

4.6 Relevant to this appeal, the statutory development plan comprises the following:

- Babergh and Mid Suffolk Joint Local Plan – Part 1 ('JLP', 2023)
- Bentley Neighbourhood Plan ('BNP', 2022)

4.7 Within the development plan, those policies considered to be most relevant for the determination of this appeal are agreed between the parties to be:

- SP03 The Sustainable Location of New Development
- SP09 Enhancement and Management of the Environment
- LP17 Landscape
- LP18 Areas of Outstanding Natural Beauty
- LP19 The Historic Environment
- LP25 Energy Sources, Storage, and Distribution
- BEN3 Development Design
- BEN7 Protecting Bentley's Landscape Character
- BEN11 Heritage Assets
- BEN12 Buildings of Local Significance

[3] R *(Barnwell Manor Wind Energy Ltd) v East Northamptonshire DC* [2014] EWCA Civ 137.

4.8 In my view, policy LP24 (which now forms part of the updated RfR) should be considered relevant following the designation of the BCA where criteria within that policy have an increased importance in assessing the appeal application. The Appellant disagrees. In support of regarding policy LP24 as a most important policy, I highlight the emphasis within the policy on developments responding to and safeguarding the context in which they are found (see LP24(1)(a)-(b)), which involves *inter alia* safeguarding historic assets (LP24(2)(a)) and also achieving compatibility in relation to the surrounding area LP4(2)(b). In my view, it is clear that the designation of the BCA is material to appreciating local context in and around the site and therefore evaluating the extent to which historic assets are safeguarded or responded to, and the extent to which the proposal is compatible with the now designated surrounding area. Given that the appeal development essentially remains unchanged since the adoption of that designation, it cannot be said to have been designed with that in mind.

4.9 The above policies form part of a recently adopted development plan document. Like the two Inspectors who examined the JLP (**CD-H10**), I consider those policies to be sound and that they should be afforded full weight where they are up to date.

4.10 It is my understanding that the Appellant now considers policy LP25 to be out of date; this is a point that was not raised in their Statement of Case and only became apparent in the latter stages of agreeing the general SCG.

4.11 I consider LP25 to be up to date, for the following reasons:

- Firstly, as above, LP25 forms part of a recently adopted development plan found sound by two examining Inspectors in September 2023. The policy requirement for an ASA was not found to be inconsistent with national planning policy, otherwise it would have required further modification.

- Secondly, setting aside from the fact that EN-1 is directly applicable to NSIP, and it is the NPPF which has primacy in relation to applications determined under the 1990 Act, read as a whole section 4.3 of EN-1 does not discount a requirement to undertake an ASA. The use of the word 'simply' at para. 4.3.24 makes clear that a comparison of impacts between sites should not be the only factor or a straightforward reason for refusal; a textured judgement will be required having regard to the relevant considerations.

4.12 My opinion on this matter was considered in another appeal for solar development determined this year[4]; my evidence for that appeal adopted the same position as set out above, which was accepted by the Inspector in finding:

> 'The appellant contends that JLP Policy LP25 is out of date because of EN-1, and so paragraph 11 (d) of the NPPF applies. I disagree. JLP Policy LP25 and EN-1 require a balancing of harmful impacts against the need for renewable energy generation. EN-1 does not rule out an alternative site assessment.'

4.13 The version of EN-1 considered by the Inspector in that case is the same as this appeal. I also note that the Appellant cites para. 4.3.24 of EN-1 in their ASA Addendum (**CD-C24**, para. 2.5). as a reason for not needing to produce such an assessment. This is the same argument made by the Appellant in the case above in alleging that policy LP25 is out of date, rejected by the Inspector. I should also add that para 4.3.24 remains unchanged in the current draft EN-1.

4.14 Therefore, I do not consider there to have been any material change of circumstances in terms of facts or policy that would render that assessment incorrect. Because the proposal is for renewable energy and the development would impact the setting of

[4] Appeal ref. APP/W3520/W/24/3345132 – Land at Woodlands Farm, Stowmarket.

designated heritage assets, the third limb of policy LP25 is engaged. For ease, I set the relevant text out in full below:

> 'Where proposals for renewable and low carbon energy impact on… the setting of heritage assets (including conservation areas), the applicant must be able to convincingly demonstrate that potential harm resultant from development can be effectively mitigated and that there are no alternative sites available within the District or for community initiatives within the area which it is intended to serve […]'

4.15 The Appellant is therefore required to convincingly demonstrate both that: a. the heritage harm resultant from development can be effectively mitigated; ***and*** b. that there are no alternative sites available within the District. This requirement is inescapable if the Appellant is to seek to demonstrate compliance with the development plan given the importance of the policy; its test being clear and specifically directed at developments of the kind proposed such that operating contrary to that approach undermines the desired way in which the development plan wishes solar developments to be assessed.

4.16 Again, late in the process of agreeing the general SCG the Appellant put forward a new proposition that the requirement to 'convincingly demonstrate' within LP25 only relates to mitigation and has no bearing on the assessment of alternative sites; presumably, to suggest that such an assessment need not be convincing. On its face that is illogical – the implication being that an unconvincing assessment would be acceptable (which seems perverse) – and such an interpretation also makes no sense as a matter of plain English given the wording of the policy and its structure.

4.17 The phrase 'convincingly demonstrate' was also the wording recommended by the examining Inspectors to the JLP, explaining in their final report that:

> 'This wording is necessary to ensure that the plan is effective: it is important that the plan does not permit the acceptance of an unconvincing demonstration of the relevant matters; but equally evidence should not have to be "to the satisfaction of the Council" which would, in theory allow, for

> the Councils to unreasonably not be satisfied by a wholly convincing demonstration. We recognise that there is an element of subjectivity to what constitutes a "convincing demonstration", but that is inherently the case with many planning matters and would apply if alternative wording, such as "robustly justify" were to be used instead of "convincingly demonstrate".'

4.18 In my view it must be the case that a convincing alternative sites assessment ('ASA') is required because on the Appellant's own evidence, and the dedicated heritage SCG, it is settled that there would be a degree of harm to various designated heritage assets (or at least, in the words of the policy, an impact upon their settings given the nature and siting of the development proposed). I return to the Appellant's ASA exercise (and subsequent Addendum) under section 5 of this Proof.

The National Planning Policy Framework

4.1 The NPPF, last updated in December 2024, sets out the Government's planning policies for England and how they should be applied. It is a material consideration for decision-taking purposes and can affect the weight attached to policies of the development plan. It cannot, however, alter whether there is a conflict with the development plan nor undermine the statutory primacy that a development plan holds.

4.2 A draft NPPF was published for consultation on 16th December 2025, running to 10th March 2026 after this Inquiry closes. Because the consultation has only just begun, and where it is unclear which if any of the proposed changes will ultimately be adopted (and that of course that the draft policies are liable to change depending on the outcome of this consultation), I do not give any more than limited weight to the new draft NPPF and in practice it is unlikely to play any determinative role in the outcome of this appeal.

4.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. At Paragraph 8, this is defined as meaning that there are three overarching objectives which are interdependent and need to be pursued in mutually supportive ways: economic, social, and environmental. The NPPF goes on to state, however, that they are not criteria against which every decision can or should be judged (paragraph 9).

4.4 I identify the chapters and paragraphs that are of particular and direct relevance to this appeal under Section 5, except for 'the presumption', which is dealt with below.

4.5 The NPPF is supported and complemented by the national *Planning Practice Guidance* ('PPG'). The guidance provided by the PPG is advice on procedure and elaboration of NPPF policies and can provide statements of new planning policy. It is a material consideration alongside the NPPF.

The Presumption in Favour of Sustainable Development

4.6 Paragraph 11 of the NPPF directs that planning decisions should apply a 'presumption in favour of sustainable development'.

4.7 In respect of the operation of paragraph 11.c) for decision-taking purposes, where planning proposals accord with an up-to-date development plan, they should be granted planning permission without delay. The corollary, naturally, is that where a proposed development does not accord with an up-to-date development plan then planning permission should be refused unless there are prevailing material considerations to the contrary, as per NPPF paragraphs 12 and 47.

4.8 Paragraph 11.d)ii. is widely known as the "tilted balance". This is because, if engaged, paragraph 11.d)ii provides that planning permission should be granted unless any adverse impacts of doing so (which might in principle include conflict with the

development plan) would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

4.9 In my opinion this is not a case where the tilted balance applies. This is because there are obviously development plan policies relevant to the assessment of the application (as agreed with the Appellant in the SCG), and as I set out above those policies most important to the determination of this appeal are up to date.

4.10 Even if that is wrong, I should make clear that the unacceptable heritage harm identified by Mr Handcock means that in accordance with paragraph 11.d)i. and footnote 7 of the NPPF there is a strong reason for dismissing the appeal. Thus, there is no need to progress to consider the "tilted balance" operation under paragraph 11.d)ii.. I consider the heritage effects of the appeal development in relation to NPPF policy later in this Proof.

National Policy Statements

4.11 National Policy Statements ('NPS') for energy infrastructure are capable of being material considerations for applications made under the Town and Country Planning Act 1990 albeit they do not directly apply to the determination of such applications. In this case such NPS include:

- EN-1 Overarching National Policy Statement for Energy (2023)
- EN-3 National Policy Statement for Renewable Energy Infrastructure (2023).

4.12 I recognise that these are important documents which support the weight to be given to the benefits of the proposed development.

Other Relevant Policy Documents

4.13 I also recognise the importance of other documents including those listed under 'D' of the Core Documents library. I would agree that that they are material insofar as they support the judgements to be made regarding the public benefits of the appeal development, which I address later in this Proof.

5. MAIN ISSUES AND ASSESSMENT

5.1 This section engages with the reasons for refusing the appeal application and relies upon the evidence of Mr Handcock and Ms Bolger. I begin by dealing with heritage matters; I then move on to other material issues including landscape character and appearance and agricultural land/BMV. I finally conclude by assessing whether the appeal scheme complies with the development plan as a whole. I will then move on to the overall planning balance under Section 6, in accordance with main issue g., as identified by the Inspector.

Heritage and the Heritage Balance

5.2 I have previously explained that in accordance with the Listed Buildings Act, where harm is identified to the setting of a listed building, and/or the character and appearance of a conservation area, the decision-taker is required by law to give that harm considerable importance and weight in the planning balance, and the harm triggers a strong presumption against planning permission being granted.[5]

5.3 The 'Considering potential impacts' subsection of NPPF chapter 16 is broadly consistent with the statutory duties of the Listed Buildings Act albeit is distinct from them. Therefore, the NPPF itself presents a strong presumption against the grant of planning permission or listed building consent where a development or works would harm a designated heritage asset, 'requiring particularly strong countervailing factors to be identified before [that presumption] can be treated as overridden'.[6]

5.4 The concept of less than substantial harm relevant to policy LP19 and paragraph 208 of the NPPF is a broad category which incorporates a wide range of degrees of harm. Any material harm within the less than substantial range can constitute a very serious

[5] R. *(Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin).
[6] *Lady Hart of Chilton,* R *(on the application of) v Babergh DC* [2014] EWHC 3261 (Admin).

consideration for the purpose of decision-taking. A decision-taker must not fall into the error of treating a finding of less than substantial harm to the setting/significance of a listed building as equating to a less than substantial objection.

5.5 Moreover, the imperative of giving considerable importance and weight to harm in a s66/s72 context does not mean that the amount of weight to be given to the desirability of preserving its setting in a planning balance is 'uniform': it will depend upon the magnitude of any impact or harm, and the extent of the significance of the heritage asset in question.[7]

5.6 Thus, it would be a mistake to view the balance within policy LP19 and NPPF paragraph 215 as a simple and flat trade-off between harm and public benefit; it is the case that there is a presumptive tilt against a grant of permission or consent within that balance because of the considerable importance and great weight required to be attached to any harm found. For this appeal that presumptive tilt is particularly forceful in light of the extent of harm identified by Mr Handcock and where that harm also relates to highly graded assets including the Church of St Mary (GII*), Bentley Hall, Meeting House Stables, and Barn (Grade II*, Grade II* and Grade I respectively). The harm also applies to a very recently adopted Conservation Area.

5.7 Mr Handcock identifies the following effects:

- Harm at the upper end of the less than substantial harm spectrum to the BCA;

- Harm in the middle of the range to the Church of St Mary (Grade II*);

- Harm at the lower to bottom end of the range to Bentley Hall, Meeting House Stables, and Barn (Grade II*, Grade II* and Grade I respectively);

[7] *City & Country Bramshill Ltd* v. *Secretary of State for Housing, Communities And Local Government and Others* [2021] EWCA Civ 320.

- Harm at the bottom end of the range to Maltings House (Grade II);

- Harm broadly in the middle range of that which could arise to non-designated heritage assets, largely from the introduction of a solar installation into the rural setting of these largely agricultural assets, effecting views to and from the assets, and approaches to them.

5.8 In accordance with the general SCG, and the agreed gradations of weight, in my opinion the overall heritage harm attracts **substantial weight** in the overall planning balance, reflecting a series of distinct harms to several important assets.

5.9 However, because harm to designated heritage assets has been identified, that harm needs to be weighed against the public benefits of the proposed development as an independent 'heritage balance'.

5.10 The public benefits have been listed between the parties in the general SCG, and the weighting of those benefits are generally agreed between the parties save for those benefits related to renewable energy generation, BNG, and an alleged 'lasting positive landscape legacy'.

- In my view the four renewable energy benefits stated by the Appellant should be viewed together as 'benefits associated with renewable and low carbon energy generation'. I collectively afford those benefits significant weight in accordance with paragraph 168.a) of the NPPF. In doing so I am mindful of a recent Secretary of State decision[8], where it was stated:

> 'For the reasons set out at IR12.3-12.9, the Secretary of State agrees with the Inspector that national and local policy provide broad support for proposals involving the generation of renewable energy such as the appeal scheme (IR12.3). The Secretary of State notes that the Inspector has given separate weight to the proposal's early contribution to

[8] APP/Y2430/W/24/3340258 – Land located to the southeast of Bottesford Road.

> generation from renewable sources (IR12.6-12.8) and energy security (IR12.9). However, taking into account paragraph 168(a) of the Framework, which states that significant weight should be given to 'the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future', she considers that these matters both fall under 'benefits associated with renewable and low carbon energy generation', and in line with paragraph 168(a) should collectively carry significant weight.'

That appeal is notable because the Inspector had given substantial weight to those benefits, including the availability of an 'immediate' grid connection offer. In this case I have therefore taken the same approach as the Secretary of State for that appeal.

- I afford moderate weight to the BNG benefits, which is consistent with the approach taken by the Inspector in the Woodlands Farm appeal (based on a gain of 192% in that case). I weigh this benefit as being more weighty than limited weight but do not consider it to be of as great a significance as the renewable energy benefits of the proposal. I note that the Appellant's position is that this benefit is of a weight equal to the benefit of renewable energy generation.

- I afford no weight to the alleged landscape benefits, having regard to the evidence of Ms Bolger which explains that whilst the proposed mitigation may limit some views of the development eventually, it will not restore the existing valued landscape character and would not result in landscape enhancement or a positive legacy (para. 12.6.4); the unchanged historic qualities of the landscape will have been lost (para. 7.6.3).

5.11 Overall I therefore recognise that overall the public benefits of the appeal development are significantly weighty overall, albeit with the clarifications above.

5.12 In my view the heritage harm, of notable extent, to various assets including highly graded GII* and a very recently adopted conservation area – which must carry considerable importance and weight – decisively outweighs the stated public benefits. I recognise that such harms would be time limited, albeit in my opinion 40 years is a significant period, being more than a generation.

5.13 Notwithstanding my position, I have considered the implications should an enhanced 'substantial' level of weight be given to the renewable energy benefits in the manner claimed by the Appellant. Whilst this would strike the heritage and planning balances in greater favour of the appeal scheme, in my view the public benefits would still be decisively outweighed by the harms both on the heritage and overall planning balances.

5.14 In respect of main issues a., b., and c., Mr Handcock's evidence shows that the proposed development would not preserve the settings of various listed buildings; would not preserve or enhance the character or appearance of the BCA; and would also be harmful to several non-designated assets. It has not been convincingly demonstrated that those harms can be effectively mitigated (and in light of the findings in relation to the ASA there has been no convincing demonstration that other alternative sires would be as or more harmful). As above, the harms identified to the designated assets would not be outweighed by the public benefits.

5.15 On that basis the appeal development is contrary to policies BEN11, BEN12, SP09, LP19, LP24, and LP25 of the development plan and fails to accord with the development plan as a whole for this reason alone. It fails the paragraph 215 test and is contrary to the policies of the NPPF. This is a strong reason for refusing the development proposed.

5.16 I also observe that the implication of the breach of policy LP24 would indicate that the scheme is poorly designed. Paragraph 139 of the NPPF additional directs that

'development that is not well designed should be refused'. In this case the development is not well designed in consideration of its location, extent, and the ineffectual mitigation proposed.

Landscape

5.17 Polices BEN3, BEN7, SP09, LP17, and LP25 collectively recognise the intrinsic character and beauty of the countryside and local distinctiveness, consistent with the policies of the Framework, particularly chapter 15.

5.18 Policy LP18 is also important to the determination of this appeal, in recognition of its third limb and the siting of the appeal development falling within the Suffolk Coast and Heaths AONB Project Area. The third limb states:

> 'Development within the AONB Project Areas should have regard to the relevant Valued Landscape Assessment.'

5.19 The obvious implication is that land within the Project Areas is capable of being identified as a Valued Landscape. This is supported by the accompanying text to the policy at para. 15.25, where it is stated:

> 'Babergh and Mid Suffolk have a diverse landscape character, with parts of Babergh lying within Dedham Vale AONB and the Suffolk Coast and Heaths AONB. Adjoining the Dedham Vale AONB is an area defined as the Stour Valley Project extending beyond Sudbury and into West Suffolk. The Suffolk Coast and Heaths AONB also has a project area which encompasses the Shotley Peninsula. Whilst these project areas do not benefit from the same protection as the AONBs, development proposals in these areas should conserve their special qualities as identified in the Valued Landscape Assessments, and where relevant seek to deliver enhancements where the special qualities have been impacted by changes in farming practices or previous development.'

5.20 The evidence of Ms Bolger demonstrates that the appeal site is within a Valued Landscape. Therefore, as well as being afforded the basic protection inherent in the

recognition of the intrinsic character and beauty of the countryside provided by local policy and paragraph 187.b) of the NPPF, there is an enhanced level of protection in this case by virtue of policy LP18 read against NPPF paragraph 187.a), which states that planning decisions should *protect and enhance* Valued Landscapes in a manner commensurate with their identified quality in the development plan.

5.21 The qualities identified by Ms Bolger are consistent with those found in the relevant Valued Landscape Assessment prepared by Alison Farmer Associates, as referenced in policy LP18.

5.22 The evidence of Ms Bolger explains that the proposed development, due to its unsympathetic character and its failure to recognise the special qualities of the landscape in which it is proposed, would be in conflict with both local and national policies. It would erode the character of a well-preserved landscape that has remained largely unaltered and free from modern development. It would introduce an abrupt, alien and jarring form of development into a valued historic landscape.

5.23 Accordingly, and in respect of main issue d., the appeal application does not accord with the aforementioned policies and represents a further breach of the development plan, in this individual respect. In my opinion, the harm identified attracts a **significant** weighting in the overall planning balance. I attach a significant weighting to this harm given the magnitude of adverse effect identified, and considering the enhanced status and quality of the landscape affected.

Alternative Sites Assessment

5.24 As set out above, the Appellant is required to undertake an ASA in accordance with policy LP25. The onus is on the Appellant to produce this in a convincing manner. The Council and Appellant have sought to agree an appropriate methodology for that exercise, with limited success; the ASA Addendum was produced late, on 15th

December 2025. In the time available I have reviewed that document and respond as follows, but reserve my position in expanding on my position subject to receiving the Appellant's evidence.

5.25 I do not agree with the approach taken in the ASA Addendum, for the following reasons:

- Firstly, the methodology in Step 1 does not test 'alternative sites available within the District'; instead, it tests solely against the point of connection ('POC'). The Appellant expressly rejects a high-level district-wide review of realistic points of connection and maintains that the 3km/132kV line search area should simply be carried forward. That is a re-definition of the LP25(3) question, not a response to it. I should add that the Appellant has stated that they are acting on a principle of 'of choosing a site based on available grid export capacity' (§4.1); such a principle would obviously extend to other sites where grid export capacity may be available.

- Secondly, the insistence that a district-wide POC review is an 'academic exercise' is no longer convincing in light of Connections Reform which has only recently been introduced, and moves from a "first-come, first served" chronological system to one based on merit and strategic need. Ofgem document CMP434 (**Appendix C**) explicitly moves the regime to bi-annual application windows, i.e. a structured process in which connection opportunities are pursued through recurring gateways. In those circumstances, it is methodologically unsafe to treat the Appellant's existing offer as the only realistic connection opportunity in Babergh for the purposes of an LP25 alternatives test.

- This new situation can therefore be contrasted with the Woodlands Farm decision (**CD-H1**), which predates Connections Reform. In dealing with the

Appellant's ASA in that case, the Inspector recognised that none of the alternative sites had a connection offer (para. 41). However, this 'important consideration' was predicated on the current queue for grid connections where there would likely be a 'significant time delay' before any of those sites could connect to the grid. In that case the Appellant's evidence included correspondence from UK Power Networks stating that the earliest connection date for any new scheme would not be until the end of 2034, and that there were no other points of connection within the whole of Suffolk that could offer a new connection before 2032 (**Appendix D**). The purpose of Connections Reform is to get projects connected faster; the previous "first come, first served" approach present at the time the Woodlands Farm appeal was determined has now been overhauled.

- Thirdly, Step 2 is framed as a 'higher environmental value' sieve, but the ASA Addendum then excludes heritage from the Stage 2 constraints review on the basis that (i) there were no conservation areas at the time, and (ii) it is 'retrospective' and 'not proportionate or realistic' to consider heritage at Step 2 (§5.2). This is illogical: a fundamental reason a refreshed ASA exercise is required is that circumstances have changed (Conservation Area designation), and the method of shortlisting must be capable of responding to that change rather than insulating the shortlisting process from it.

- Fourthly, the ASA Addendum's position that Conservation Areas are not capable of operating as a Stage 2 constraint because they are of 'comparable' value (and not higher value) is misconceived (§3.48). LP25(3) is engaged precisely because the proposal impacts the setting of heritage assets (including conservation areas); a methodology which prevents Conservation Area designation from influencing the reduction from long list to short list is structurally biased against identifying lower-harm alternatives.

- Fifthly, the treatment of BMV/Grade 2 land at Step 2 is internally inconsistent and operates unfairly. The ASA Addendum continues to screen out all land shown as Grade 1 and Grade 2, whilst relying on intrusive survey information for the appeal site to justify keeping the appeal site in notwithstanding that available mapping shows Grade 2 coverage. It then says it is not feasible to apply comparable survey work to other land due to access constraints but nonetheless uses that absence of intrusive survey to justify exclusion. That is not a like-for-like desktop sift, and it materially affects what sites are capable of reaching the shortlist.

- Finally, the Updated ASA repeatedly places weight on the fact that aspects of the earlier approach were 'not questioned' at application stage or within the committee report (§3.39). That is not a methodological justification. The Inspector is concerned with whether LP25(3) is satisfied on the evidence now before the Inquiry, and whether the updated ASA exercise provides a convincing basis for concluding that there are no alternatives within Babergh; it cannot do so if the shortlisting filters are themselves unduly constrained, internally inconsistent, and insulated from the changed circumstances that prompted the update.

5.26 Taken together, these methodological issues mean that the shortlist does not emerge from an objective and proportionate attempt to 'convincingly demonstrate' the absence of alternatives within the District. For that reason alone, the ASA Update does not provide a convincing basis for concluding that Policy LP25(3) is satisfied.

5.27 Notwithstanding my concerns about the unconvincing approach taken in the ASA Addendum, having regard to the evidence of Mr Handcock and Ms Bolger I also do not consider that it has been convincingly demonstrated that there are no alternative sites available within the District, having regard to the five shortlisted sites.

5.28 Ms Bolger explains that from a landscape and visual perspective Site C1 is preferable to the appeal site and that Site C2 is equivalent. From a heritage perspective, Mr Handock concludes that Site C1 has *notable advantages* to the appeal site (the Appellant also agrees that C1 is preferable in this regard); Site C2 also has advantages over the appeal site.

5.29 I note that in the ASA Addendum the Appellant principally seeks to discount Site C1 due to access issues; likewise, Site C2 is afforded a similarly negative weighting. In both cases this is due to the single-track nature of 'The Street' and the alleged need for passing places and construction traffic management. In my experience these are not insurmountable challenges to development proceeding, subject to careful management that could be controlled by condition which is a typical response. This is not a wholly different scenario to the appeal scheme, which can be seen from the submitted Transport Statement (**CD-A15**, para. 3.2.13). The Transport Assessment also includes correspondence from the Local Highway Authority ('LHA'), raising the single-track nature of serving lanes as requiring careful management (Appendix A of that document); the LHA, of course, does not object to this scheme subject to conditions. The LHA has also subsequently written to the Council setting out that they have no in-principle concerns with the shortlisted sites (**Appendix E**).

5.30 Whilst the constraints of Sites C1 and C2 are noted from a highway perspective, I do not consider that it has been convincingly demonstrated that this is an insurmountable issue. Nor do I consider that this matter, which is ultimately an implementation issue, renders those sites less preferable than the appeal site in hosting the proposed development.

5.31 In light of the above I do not consider that the Appellant has made a demonstrably convincing undertaking, both for reasons of methodology and assessment outcome. On that basis the application does not accord with policy LP25.

Other Matters (Spatial Strategy and BMV (issue f.))

5.32 Policy SP03 is a most relevant policy because it sets out where new sustainable development is to be located. In this case, permission can only be granted in accordance with the development plan if there is compliance with policy LP25. Thus, where there is conflict with policy LP25 then there would also be a breach of this policy.

5.33 The Inspector has identified the effect of the development upon BMV land as a main issue for the appeal (issue f.), where it is agreed that the site is made up of 7.1% Grade 2, and 55.7% Grade 3a, agricultural land. Therefore, the appeal site predominantly comprises the Best and Most Versatile Agricultural (BMV) Land, which is a matter agreed between the Council and Appellant.

5.34 It has been agreed that the Appellant has sought to limit the impact on the highest-grade land by limiting development of Grade 2 land as far as possible. It has also been agreed that the development can improve soil resource and agricultural land quality, and that this is a benefit of 'limited weight'.

5.35 I have considered and do not depart from those agreed matters, albeit also recognising the implications of policy LP15 of the JLP, and NPPF paragraph 187.b) alongside footnote 65. Given that a significant area of BMV land would nevertheless still be taken out of production for a significant period, this weighs against the identified limited benefit.

5.36 Overall, therefore, I see this as a neutral matter in the overall planning balance. However, I should add that even if it remained on the positive side of the balance this would not play any determinative role in the decision.

6. PLANNING BALANCE AND CONCLUSION (SUMMARY PROOF)

6.1 As set out above, and as is emphasised within the NPPF there is a statutory presumption both in favour of the development plan and in keeping designated heritage assets from harm. Both of these factors militate strongly against the grant of permission in this case.

6.2 The proposed development would harm the significance of various designated heritage assets including a very recently adopted Conservation Area and highly graded assets, among other designated assets, and non-designated assets, that would also be harmed by a notable degree. The heritage harm must be afforded considerable importance and great weight; it is not outweighed by the public benefits of the proposed scheme and substantially weighs against the development overall. The appeal application is contrary to policies BEN11, BEN12, SP09, LP19, LP24, and LP25.

6.3 Furthermore, the appeal development would give rise to significant harm to a Valued Landscape, contrary to policies BEN3, BEN7, SP09, LP17, LP18, and LP25.

6.4 In respect of policy LP25 the Appellant has also failed to convincingly demonstrate that there are no alternative sites available within the District for the proposed development. This is down to a flawed methodology and also, on the Appellant's own ASA shortlisting, two preferable sites being identified.

6.5 Where the development would conflict with policy LP25, it would be unsustainable and contrary to policy SP03.

6.6 The appeal application is therefore contrary to the development plan as a whole and the direction of the plan is therefore to refuse to grant permission.

6.7 I recognise that in their totality the benefits of the development are significantly weighty; I have also, for sake of prudence adopted the Appellant's position of affording an enhanced 'substantial' weighting in respect of the various benefits associated with renewable energy in this case. In doing so I recognise the importance and emphasis placed by Government on the need to transition to a low carbon future. Even so, those benefits must be weighed against the very serious harms that have been identified in relation to ***this*** development.

6.8 Other material considerations do not therefore point to a different conclusion but reinforce my view that the appeal should be dismissed. Assessed against the policies of the NPPF taken as a whole, the scheme performs no better, and the application of national heritage policy provides a strong reason for refusing the development proposed. The finding on heritage matters is consistent with the s66 and s72 duties of the Listed Buildings Act; those duties are not merely an "other material consideration", they have the force of statute and must be followed. The development would also fail to protect and enhance the Valued Landscape contrary to paragraph 187.a). The scheme is therefore poorly designed and should be refused for this reason, too (para. 139).

6.9 The proposed development would be contrary to the development plan and national planning policy and there are no material considerations that justify a departure from those policies; the harm that has been identified is not outweighed by the public benefits.

6.10 Where there are no other considerations that would indicate a planning balance being struck any other way than to refuse planning permission, it is respectfully submitted that the appeal should be dismissed.

7. APPENDICES

A. NESO Article
B. Existing Agreements Register (.xlsx)
C. CMP434
D. UKPN Woodlands Farm Letter
E. Letter from SCC Highways

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