

**HILFIELD SOLAR FARM, LAND NORTH OF BUTTERFLY LANE,
SURROUNDING HILFIELD FARM AND LAND WEST OF HILFIELD LANE,
ALDENHAM**

APPELLANT'S OPENING SUBMISSIONS

Introduction

1. It is obvious that this country needs (a) more energy and (b) more renewable energy. These are propositions that cannot be overstated and it is somewhat absurd that the Appellant is being required to use the appeal route to secure consent for a scheme that should have been welcomed by the Council. The time the appeal process takes would have been time better spent allowing the development to commence and for the solar farm to begin contributing towards the 2050 net zero target.
2. The 2050 net zero target is not merely a policy aspiration but a legal requirement. s.1 of the Climate Change Act 2008 sets a mandatory requirement:

“It is the duty of the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.”
3. The Digest of UK Energy Statistics Annual data for UK, 2021¹ show that:
 - a. renewable generation dropped to 39.6 per cent of generation from 43.2 per cent in 2020;
 - b. Energy production was low, down 14 per cent compared to last year and the lowest level in over 50 years;
 - c. Net imports increased by 41 per cent and net import dependency increased to 38 per cent; and
 - d. 90 per cent of imports comprised oil and gas.

These are not positive statistics when considering the need to boost renewable energy production and energy security.

¹ CD NPP28

4. For the nation to turn this around and to seek to achieve the 2050 targets, and interim 2032 targets, change is needed. An increase in renewable energy generation is key to such changes. As recognised by the National Audit Office²:

“Reducing emissions further to achieve net zero will require wide-ranging changes to the UK economy, including further investment in renewable electricity generation, as well as changing the way people travel, how land is used and how buildings are heated.”

5. National objectives require not just simply national action but local action. It has always been true of the planning system that development that has wide reaching and national benefits takes place in a specific location. That a development may have some local negative impacts is no reason to discount or reduce the importance of the benefits it delivers. The NPPF, as its name suggests, is aimed at achieving sustainable development for the nation.
6. The Council itself recognises the importance of the national climate agenda and has declared a Climate Emergency³ which commits itself to meeting the 2050 net zero target. To achieve this goal the Council’s climate strategy specifically recognises the importance of the renewable’s sector⁴:

“a major aspect of reducing emissions from energy consumption is to shift the source of energy consumed from fossil fuels to renewable sources, such as wind and solar”

7. The Council’s policy documents all say the right things but the Council are yet to take the “ambitious actions”⁵ which they claim they are committed to. Renewable energy generation in Hertsmere is well below the national average. Nationally 33% of electricity is generated from renewable sources including solar energy, whereas in Hertsmere the 2018 data shows that only 5.4% of energy consumed is from renewable sources.
8. Other than policy statements which recognise the importance of renewable energy and the need to increase renewable energy capacity the Council have no actual plan to achieve their stated aims. They are dependent on schemes, such as the Appeal proposal, coming forward to change the picture. Their continued opposition to the Appeal Scheme sits very uncomfortably alongside the suite of Climate documents they have adopted.
9. The Appeal proposals will have a capacity of 49.9MW which equates to an electricity generating power for over 11,160 households in Hertsmere and would result in savings of carbon dioxide emissions during its operational period of c. 11,515 tonnes of CO2 per annum. The significance of such benefits is stark.

² CD NPP30

³ CD HSPD2

⁴ CD HSPD5, p6

⁵ CD HSPD5, p4

10. That a solar farm would generate such benefits is inevitable, but what perhaps marks the Appeal Scheme out are that these are not the only benefits that would be delivered. The Appeal Scheme is part of the Aldenham Estate's wider vision and aspirations for environmentally responsible long term management. The Estate very much sees this as a legacy project whose benefits will live on long beyond the lifespan of the solar farm itself.
11. This vision has seen the Scheme create an ecological management plan which will achieve an overall Biodiversity Net Gain of 90% in area derived units and 25% in linear derived units. That is a level of benefit way beyond any anticipated in national policy, local policy or legislation. Further environmental benefits will arise from the increase in soil quality under the solar pv panels. This may seem counterintuitive to those who do not regularly deal with such developments but the conversion of arable land to grassland under solar pv panels can improve soil health by processes such as increasing soil organic matter and hence soil organic carbon, increasing soil biodiversity and improving soil structure⁶.
12. Consistent with the Estate's aspirations is the provision of the two permissive public rights of way. One to allow the Belstone Football Club to make use of a corner at the rear end of their playing fields that is currently disused and the second to link into the existing public rights of way network improving connectivity and enhance opportunities for outdoor recreation.
13. The advantages of this solar farm are not simply made up of its obvious renewable energy benefits but the more local environmental and social enhancements as well.
14. Against these benefits two reasons for refusal were raised by the Council based on heritage and green belt impacts and through this Inquiry the Appellant will demonstrate that both are unfounded.

Heritage

15. Intervisibility and co-visibility between a heritage asset and new development does not automatically create harm. This is a trite proposition that is all too often forgotten or misunderstood as it has been by the Council. In order to understand what the impact on a heritage asset is, you have to understand what the actual significance of the asset is and from where and what it draws that significance.
16. When considering the evidence that will be presented to the Inquiry the Inspector will have to form a view on the robustness to which the respective experts have actually carried out the task that NPPF paras 194 and 195 sets them – to take account of the available evidence and understand the significance of the heritage assets and the contribution made to significance by their setting. With respect, it will be submitted

⁶ CD-PA14a, paragraph 5.1.6, page 12

that the evidence of GS is the most detailed, accurate and robust examination of these issues.

17. The Appellant accepts that there will be some harm caused to the significance of Slades Farmhouse. This harm arises because some panels will be placed in land historically associated with the Farmhouse therefore altering the historic land association. However, that historic association was not a constant one and the extent of the landholding fluctuated through time. What would be unaffected by the solar farm would be the legibility of the Farmhouse with the formerly associated farm buildings. It is obvious that the harm caused could only ever be described as at the low end of less than substantial harm.
18. The Appellant similarly accepts that there will be some harm to Hilfield Castle and Lodge that will be at the low end of less than substantial harm. Such harm arises because solar panels will be placed in land which was once part of the wider parkland which had some visibility and co-visibility with the Castle and Lodge. However, the intervisibility following the creation of the solar farm will be limited and mitigation is proposed which will enhance the legibility of the western and northern areas of former parkland as the trees mature, and panels are set back from the south-western drive entrance and the northern boundary of the grounds.
19. The harm to these assets is temporary and will be wholly reversed once the solar farm is decommissioned. Whereas the enhancements that are proposed will remain.
20. No harm will be caused to the significance of Penne's Place Scheduled Monument. This assessment of no harm is not simply that of the Appellant but of JE as well on behalf of the Parish Council as well. Such a conclusion is inescapable when the asset and its setting are properly understood. The setting of the monument bears little resemblance now to that when it was created. The setting has changed both physically and functionally diminishing the contribution the wider setting makes to the significance of the Monument. Any intervisibility of the Appeal Scheme and the Monument will be limited and has been minimised by the setback between the two.
21. Nor will any harm be cause to the significance of assets at Aldenham Park. The Grade II* Listed house and stables have no intervisibilty with the site, and change within the area will not alter the way they are appreciated or understood. The potential for impact on the Registered Park and Garden requires a more careful consideration of the historic record but when this is understood the same conclusion of no impact is reached. The Appeal Site is neither part of the early parkland or the expanded 19th Century parkland. There are designed views from the asset but they are limited to those along the wide elm avenue which are unaffected by the solar farm. In parts there will be some intervisibility of the Appeal Proposal but this is not harmful and none of the Proofs of Evidence before the Inquiry have come close to explaining why any such intervisibility would be harmful.

22. The justification for the concerns raised by COG on other assets remains largely opaque to the Appellant as their evidence does little to add to what was blindly asserted in their statement of case. For the avoidance of doubt the Appellant does not accept that there is any such additional harm that needs to be considered.

Green Belt

23. Whilst the Inquiry will hear evidence from landscape witnesses the Council did not refuse planning permission on the grounds of landscape character and visual impact. The Council's concern, as expressed in the first reason for refusal, was limited to harm to Green Belt openness.
24. The Rule 6 Parties have raised wider landscape and visual impact but these are unfounded. As AK demonstrates in his evidence and as he will explain to the Inquiry the actual consequence of the development would be an enhancement of landscape character in the long term. Due to the nature of the baseline condition the development of the site offers the opportunity to create a more coherent landscape framework across the appeal site. That baseline condition has been carefully considered and a landscape management plan devised which positively responds to it resulting in an improvement on the existing situation and provision of appropriate mitigation sensitive to landscape character.
25. Solar panels are not dense structures, they are, as their name indicates, panels that are mounted on frames. This means their top surface is solid but below them they are largely open. Understanding this physical structure and their height is key to understanding their impact on openness. The Appellant obviously accepts that there will be a loss of openness arising from the development but it is entirely too simplistic of an approach to suggest that the spatial impact on openness mirrors the size of the solar farm. The consideration of the spatial impact on openness must be informed by the structure of the solar panels and that structure plainly has less of an impact than a solid structure of the same size.
26. The impact on visual openness is obviously dependent on the extent to which the solar panels will be visible within the wider landscape. Again, the nature of the structure of the solar panels and their low lying heights reduces their potential for a visual impact. As AK explains in his evidence the topography of the appeal site and vegetation are also key features which act to reduce the level of impact. The consequence of these factors combined are that the visibility of the solar farm is primarily limited to localised viewpoints, this prevents the development from causing a wider harm to openness. Where views are apparent from the wider area they are limited and the character of the landscape will prevail.
27. The only Green Belt purpose that would be harmed by the solar farm would be that of "assisting the safeguarding of countryside from encroachment" and that only happens because of the introduction of man made development to the site and to the extent it is

visible in the wider landscape. There is no wider harm than that and in any event the visibility of the solar farm would be limited minimising the impact on this purpose.

28. All of these harms would disappear once the solar farm is decommissioned.

Planning Balance

29. The consequence of the low level of less than substantial harm to heritage assets is that the policy test at para 202 of the NPPF is engaged. That is a straight balance that simply requires the heritage harms to be weighed against the public benefits of the scheme. The weight to be attached to any heritage harm as the courts have reiterated is a significant one due to the statutory obligations but it is a harm that is eminently capable of being outweighed and often is. Here, the benefits of the scheme are very substantial and plainly outweigh the low level of less than substantial harm.

30. The Green Belt policy test in the NPPF at para 148 is more wide reaching and requires any harm to be outweighed by the benefits of the appeal proposal so that very special circumstances exist. The Appellant accepts that the development is inappropriate development and that along with the harms to openness and the purpose of including land in the Green Belt must be taken into account when carrying out this balance.

31. When carrying out this balance regard must also be had to NPPF para 151 which states "...very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources." Those wider benefits do exist here and exist in a local authority area where the Council is failing to meet its locally set objectives for taking action against climate change. But they are not, as already set out, the only benefits of the scheme.

32. The solar farm is a well thought out development, the size, scale and location of which has been carefully informed by a proper understanding of the local context. It is being brought forward not simply at the behest of the developer but as part of the Aldenham Estate's wider vision and objectives. It is a legacy project whose environmental benefits cannot be understated.

33. In due course the Appellant will invite you to grant permission.

PAUL G TUCKER KC
FREDDIE HUMPHREYS
18TH OCTOBER 2022

KINGS CHAMBERS

MANCHESTER – LEEDS – BIRMINGHAM - LONDON