



Department for
Communities and
Local Government

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Our Ref: APP/H1840/W/15/3136031 &
APP/P1805/15/3136033

25 May 2016

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY MARKUS WIERENGA (GREEN SWITCH DEVELOPMENTS LTD) AT
RECTORY FARM, RECTORY LAND, UPTON WARREN, WORCESTERSHIRE
APPLICATION REFERENCES: (A) W/15/01035/PN (B) 15/0387**

1. I refer to an e-mail of 24 May 2016 received by the Department from Wychavon District Council requesting a correction to the planning application reference number referred to in the Secretary of State's decision letter on the above case dated 23 May 2016.
2. As this request was made before the end of the relevant period for making such corrections under section 56 of the Planning and Compulsory Purchase Act 2004 (the Act), a decision has been made by the Secretary of State to correct the error. Accordingly, he has amended this reference in the attached decision letter and Inspector's Report.
3. Under the provisions of section 58(1) of the Act, the effect of the correction referred to above is that the original decision is taken not to have been made and an application may be made to the High Court within six weeks from the date of this notice for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
4. A copy of this letter and the amended decision letter have been sent to Wychavon District Council.

Yours faithfully

Jean Nowak

JEAN NOWAK



Department for
Communities and
Local Government

Gillian Slater
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Our Ref: APP/H1840/W/15/3136031 &
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23 May 2016

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY MARKUS WIERENGA (GREEN SWITCH DEVELOPMENTS LTD)
AT RECTORY FARM, RECTORY LANE, UPTON WARREN, WORCESTERSHIRE
APPLICATION REFERENCES: (A) W/15/01035/PN & (B)15/0387**

1. I am directed by the Secretary of State for Communities and Local Government to say that consideration has been given to the report of the Inspector, Vicki Hirst BA(Hons) PG Dip TP MA MRTPI, who made a site visit on 4 January 2016 relating to your client's appeals against the decisions of Wychavon District Council (appeal A) and Bromsgrove District Council (appeal B) - (referred to hereafter jointly as "the appeals" and "the Councils") - to refuse planning permission for a 8.94MW solar farm and associated works on land adjacent to Rectory Farm, Rectory Lane, Upton Warren, Worcestershire B61 7EL, in accordance with application references (A) W/15/01035/PN (dated 21 April 2015) and (B) 15/0387 (also dated 21 April 2015) respectively. The proposal covers a single site which straddles the boundary between the two local planning authorities.
2. On 23 December 2015 the appeals were recovered for the Secretary of State's determination in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because they involve proposals for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that both appeals be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation, dismisses the appeals and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and Statutory Considerations

4. In deciding these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
5. In this case, the development plan for Wychavon comprises the South Worcestershire Development Plan (SWDP) adopted 25 February 2016; and the Bromsgrove development plan comprises the saved policies of the Bromsgrove District Local Plan 2004. The SWDP replaced the Wychavon District Local Plan which was in force at the time the application was determined, but the Secretary of State agrees with the Inspector (IR4) that the general policies cited in the SWDP are similar to those in the Wychavon Plan. The Secretary of State considers that the development plan policies of most relevance to these appeals are those identified by the Inspector at IR16-23.
6. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* March 2012 (the Framework), and the planning practice guidance first published in March 2014 (the guidance). He has also had regard to the Written Ministerial Statement of March 2015 referred to by the Inspector at IR28 and which, amongst other matters, concerns solar energy and the protection of the local and global environment.
7. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by this scheme or their settings or any features of special architectural or historic interest which they may possess. He has also given special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in accordance with section 72 of the LBCA Act.

Main Issues

8. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR128.

Harm to the Green Belt

9. The Secretary of State agrees with the Inspector that the appeals site lies within the West Midlands Green Belt (IR9) where the proposal would constitute inappropriate development (IR129). For the reasons given by the Inspector at IR131-134, the Secretary of State agrees with her that the proposed solar farm would have a significant adverse effect on the openness of the Green Belt and that, for the duration of its existence, it would fundamentally conflict with one of the purposes of Green Belts to assist in safeguarding the countryside from encroachment, thereby adding significantly to the harm to the Green Belt (IR134).

Character and Appearance

10. The Secretary of State has given careful consideration to the Inspector's analysis of the scheme's impact on character and appearance and visual amenity at IR135-IR149. Whilst he accepts that the site does not contain any statutory landscape or conservation designations, he shares the Inspector's view that, for the reasons given at IR139, the proposed development would be an incongruous and alien intrusion that would be harmful to the landscape character of the area. The Secretary of State also agrees with the Inspector that the network of paths that cross the site would be dominated by the presence of the proposed development (IR145) to the extent that the enjoyment of a network of public rights of way would be significantly affected and harmed by the proposal.

Heritage Assets

11. Having carefully considered the Inspector's reasoning at IR150-157, the Secretary of State agrees that, whilst the proposed development would not cause harm to the nearby Upton Warren Conservation Area (IR151) or be harmful to the special interest or setting of West Lodge or its barn (IR152), it would be an alien and discordant feature within the pastoral setting of the Bowling Green Farmhouse and barn (IR153-154). The Secretary of State agrees with the Inspector that, for the reasons given at IR154-157, although the harm caused to Bowling Green Farmhouse and barn would be less than substantial for the purposes of paragraph 134 of the Framework, the fact that the overall scheme would be harmful to the setting of these heritage assets and would not therefore accord with the SWDP or national policy weighs significantly against the proposal.

Other matters

12. For the reasons given at IR158, the Secretary of State agrees with the Inspector that limited weight should be given to the benefit arising through additional planting of hedgerows and a wildflower meadow. He also agrees that, for the reasons given at IR159, the proposal would not give rise to any significant highway safety concerns and that potential highways impacts would be neutral in the planning balance. Furthermore, like the Inspector (IR160), the Secretary of State gives limited weight to the fact that the land is predominantly classified as Grade 3b and so would not represent the best and most versatile agricultural land as defined in the Framework.

Renewable energy

13. The Secretary of State agrees with the Inspector that, for the reasons given at IR161-162, the contribution that the proposed scheme would make to energy security and national renewable energy targets weighs significantly in its favour.

Very special circumstances

14. The Secretary of State has given careful consideration to the Inspector's arguments at IR163-174. Taking account of paragraph 91 of the Framework, which states that the very special circumstances for locating a renewable energy project in the Green Belt may include the wider environmental benefits associated with increased production of energy from renewable sources, he agrees with the Inspector that considerable weight should be given to those benefits (IR164). He also agrees that, for the reasons given by the Inspector, some weight should be given to the fact that the scheme would not utilise the best and most versatile land (IR165); but only limited weight to the temporary nature of the proposal which would then be removed after 25 years (IR165).
15. For the reasons given at IR166-167, the Secretary of State agrees with the Inspector that little weight should be given to the argument that there is no other available capacity or alternative sites in the Wychavon area. Like the Inspector, the Secretary of State attaches some weight to the ecological benefits which would ensue from additional planting of hedgerows and a wildflower meadow (IR168), and to the benefits to the local community through the creation of a new footpath (IR169). However, he also agrees with the Inspector (IR169) that any Unilateral Undertaking to provide a "fit for free" scheme would not meet national policy guidance.
16. The Secretary of State agrees with the Inspector (IR170) that the definitional harm to the Green Belt through the scheme being inappropriate development, along with the harm it would cause to openness and in not meeting the purposes of safeguarding the countryside from encroachment, should be weighed against the benefits outlined in paragraphs 14 and 15 above along with the harm to the setting of Bowling Green Farmhouse and barn (IR171). The

Secretary of State therefore also agrees with the Inspector (IR172) that the other considerations in this case do not clearly outweigh the harm identified, with no evidence that the impacts could be made acceptable, so that the very special circumstances necessary to justify the development do not exist. This leads the Secretary of State to also agree with the Inspector at IR173-174 that, considering the appeals proposal on its own merits and with regard to its particular context and circumstances, it would not be in accordance with the relevant development plans and would be in conflict with the objectives of the Framework and Guidance including the presumption in favour of sustainable development.

Conditions

17. The Secretary of State has considered the Inspector's assessment of the conditions at IR175-181 and the suggested conditions at Annex A of the IR. He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that the suggested conditions would overcome his reasons for dismissing the appeals.

Conclusion

18. The appeals scheme amounts, by definition, to inappropriate development in the Green Belt which would also cause harm to the openness of the Green Belt and to its purpose in assisting in safeguarding the countryside from encroachment. It would also cause harm to the landscape character and visual amenities of the area and to the setting and significance of listed buildings. Against these considerations, the appeals scheme would make a significant contribution to the attainment of national and local renewable energy policy objectives and targets and, by helping to improve the security of the energy supply, it would have direct and indirect economic benefits. Nevertheless, the Secretary of State is satisfied that the harm which this scheme would cause to the openness of the Green Belt and any other harm would not be clearly outweighed by other considerations and that the very special circumstances have not been demonstrated to justify this development in the Green Belt.

Formal Decision

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeals and refuses planning permission for a 8.94MW solar farm and associated works on land adjacent to Rectory Farm, Rectory Lane, Upton Warren, Worcestershire B61 7EL in accordance with application references (A) W/15/01035/PN (dated 21 April 2015) to Wychavon DC and (B) 15/0387 (also dated 21 April 2015) to Bromsgrove DC respectively.

Right to challenge the decision

20. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
21. Copies of this letter have been sent to Wychavon and Bromsgrove District Councils, with notifications sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Vicki Hirst BA(Hons) PG Dip TP MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 17 March 2016

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY MR MARKUS WIERENGA (GREEN SWITCH DEVELOPMENTS LTD)

WYCHAVON DISTRICT COUNCIL

BROMSGROVE DISTRICT COUNCIL

Site visit made on 4 January 2016

Rectory Farm, Rectory Lane, Upton Warren, Worcestershire, B61 7EL

File Refs: APP/H1840/W/15/3136031 & APP/P1805/W/15/3136033

APPEAL A

File Ref: APP/H1840/W/15/3136031

Rectory Farm, Rectory Lane, Upton Warren, Worcestershire, B61 7EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Markus Wierenga (Green Switch Developments Ltd) against the decision of Wychavon District Council.
- The application Ref W/15/01035/PN, dated 21 April 2015, was refused by notice dated 26 August 2015.
- The development proposed is the installation of a solar park with an output of approximately 8.94MW on land adjacent to Rectory Farm.

Summary of Recommendation: The appeal be dismissed.

APPEAL B

File Ref: APP/P1805/W/15/3136033

Rectory Farm, Rectory Lane, Upton Warren, Worcestershire, B61 7EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Markus Wierenga (Green Switch Developments Ltd) against the decision of Bromsgrove District Council.
- The application Ref 15/0387, dated 21 April 2015, was refused by notice dated 10 September 2015.
- The development proposed is the installation of a solar park with an output of approximately 8.94MW on land adjacent to Rectory Farm.

Summary of Recommendation: The appeal be dismissed.

Procedural Matters

1. As set out above this report is in relation to two separate appeals. Both relate to the same overall proposal with the substantive part situated within the administrative boundary of Wychavon District Council (Wychavon DC) and a smaller part located within Bromsgrove District Council's (Bromsgrove DC) jurisdiction. In determining the applications Wychavon DC took the lead. To avoid duplication I have referred to the appeal site and development in the singular and have considered the two appeals together except where indicated.
2. The appeals were recovered for determination by the Secretary of State on 23 December 2015. The reason for recovery is that the proposal is for significant development in the Green Belt.
3. A screening direction was given by the Planning Inspectorate as to whether the proposal is Environmental Impact Assessment (EIA) development within the meaning of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011 No. 1824). The direction given was that the proposal is not EIA development as the nature and scale of the development is such that no significant environmental impacts are likely. This direction accords with the screening opinion given by Wychavon DC¹.
4. Wychavon DC determined the application with regard to the adopted Wychavon District Local Plan (Wychavon LP). The South Worcestershire Development Plan

¹ Doc 1

(SWDP) was adopted on 25 February 2016 and supersedes the Wychavon LP and is the relevant plan against which Appeal A should be determined. The Council has provided information² in relation to those policies considered to be relevant and cites policy SWDP 2 as a replacement for policy SR7 and policy SWDP 25 as the replacement for policy ENV1 both of which are quoted in its decision notice. The appellant has made comments in relation to the implications of the SWDP. I have made my recommendations on the basis of the adopted SWDP and in relation to the main issues I am satisfied that the general content of the cited policies remains similar to those in the Wychavon LP.

5. I undertook an unaccompanied site visit to the site and surrounding area on 4 January 2016.

The Site and Surroundings

6. The site is located in the countryside and comprises some 19 hectares divided into approximately 10 small to medium sized fields by hedges and mature trees. The M5 motorway is situated to the immediate west, agricultural land lies to the north and a mixture of agricultural land and residential properties are located to the south. There are further agricultural fields to the east dividing the site from the A38 Worcester Road some 0.3km distant and which serves several commercial and residential properties to the east of the site. The village of Upton Warren, part of which is designated as a Conservation Area is situated approximately 0.6km to the south. Access to the site is currently obtained from Rectory Lane at the south west corner of the site.
7. Several public rights of way are located within the site boundaries, and follow the western and eastern boundaries and traverse across part of the site and follow its northern boundary. The paths connect to a network of paths within the surrounding countryside.
8. The triangular field comprising some 1.2 hectares in the north west corner of the site comprises the part of the site located within Bromsgrove DC's area and the remainder lies within Wychavon DC's administrative boundary.
9. The site falls within the National Character Area (NCA) 106 Severn and Avon Vales. It is within the Worcestershire Landscape Character Area Mid-Worcestershire Forest and Landscape Types Principal Timbered Farmlands and Wooded Estatelands. The character of the area is described as a rolling, agricultural landscape with woodland and the hedgerow pattern being key features, creating filtered views and a sense of enclosure³. The whole site lies within the West Midlands Green Belt.

Planning History

10. Applications for a solar park on the site were previously submitted to the two respective Councils. Following additional information being requested these applications were withdrawn prior to their formal determination⁴.

² Doc 16

³ Doc 2

⁴ Wychavon District Council ref W/14/00267/PN, Bromsgrove District Council ref B/2014/0752

The Proposal

11. The proposal would comprise an array of approximately 33,748 solar panels mounted on frames with a maximum height of some 2.33 metres with a tilt angle of 25 degrees. The panels would be orientated on an east–west alignment with gaps between rows of 3-4 metres. The proposal would also include a control building/substation, ten inverters in fibre glass enclosures distributed throughout the site and a wire mesh security fence around the perimeter with CCTV cameras.
12. New hedgerow planting is proposed, particularly along the eastern and northern boundaries to screen the rights of way and to provide biodiversity improvements and to the west of Rectory Farm buildings to provide screening. A picnic area managed as a wildflower meadow with information boards would be provided in the north east corner and improvements to links to the surrounding rights of way are also proposed⁵.
13. Temporary access to the site would be taken from an existing entrance from the A38 for the construction phase. This would follow the southern edge of the existing substation into a construction compound/staging area. The operational phase of the development would use the existing access from Rectory Lane for occasional maintenance and cleaning purposes.
14. The proposal would provide a maximum output of 8.94MW of electricity under peak operating conditions.
15. Wychavon DC refused its application under delegated powers on 26 August 2015 and its reasons for refusal are set out in its decision notice⁶. Bromsgrove DC refused its application following a committee resolution on 7 September 2015. The reasons for refusal are set out in its decision notice dated 10 September 2015⁷.

Planning Policy

The Development Plan

16. Wychavon DC's development plan comprises the SWDP. The development plan policies of particular relevance are policies SWDP 2, SWDP 24, SWDP 25 and SWDP 27.
17. Policy SWDP 2 is a general policy relating to the development strategy and settlement hierarchy. The strategy and site allocations are based on principles including the safeguarding and enhancement of the open countryside, the encouragement and effective use and re-use of brownfield land and the maintenance of the openness of the Green Belt.
18. Policy SWDP 24 is concerned with management of the historic environment and requires development proposals affecting heritage assets to be considered in accordance with the Framework, relevant legislation and published national and local guidance. Policy SWDP 25 is a general policy relating to landscape

⁵ Doc 3

⁶ Doc 4

⁷ Doc 5

character and requires proposals to demonstrate that they have taken into account the latest landscape character assessment, that they integrate with the character of the landscape setting and that they conserve and take opportunities to enhance the landscape.

19. Policy SWDP 27 welcomes stand-alone renewable energy schemes and proposals will be considered favourably having regard to the provisions of other relevant policies in the SWDP.
20. Bromsgrove DC's development plan comprises the saved policies of the Bromsgrove District Local Plan 2004 (Bromsgrove LP). The policies of particular relevance to this appeal are policies DS2, DS13 and S39.
21. Policy DS2 states that permission for development in the Green Belt will not be given except in very special circumstances for the construction of new buildings unless one of several specified instances applies. The appeals proposal does not fall into the identified instances.
22. Policy DS13 is a general policy relating to sustainable development and the need for future development to be sustainable so that present demands do not compromise the ability of future generations to meet their own demands or enjoy a high quality environment.
23. Policy S39 requires careful attention to be paid to any proposal affecting the character of a Listed Building or its setting.

National Planning Policy

24. National planning policy on renewable energy development is set out in the National Planning Policy Framework (the Framework) and Planning Practice Guidance: Renewable and Low Carbon Energy (the Guidance).
25. In line with the UK's European obligations and targets for tackling climate change, as set out in legislation and a number of statements and strategies, the Framework requires local planning authorities to have a positive strategy to promote energy from renewable and low carbon sources and maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily including cumulative landscape and visual impacts. In determining proposals the overall need for renewable or low carbon energy is not required to be demonstrated and proposals should be allowed unless material considerations indicate otherwise and if impacts can be made acceptable⁸. The Framework provides a presumption in favour of sustainable development which means that development that accords with the development plan should be approved. Where the development plan is absent, silent or out of date permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or where specific policies in the Framework indicate development should be restricted such as Green Belts⁹.
26. The Framework identifies that Green Belts serve five purposes including assisting in safeguarding the countryside from encroachment. Their essential

⁸ Paragraphs 97 & 98, National Planning Policy Framework, March 2012

⁹ Paragraph 14, National Planning Policy Framework, March 2012

characteristics are their openness and permanence. Paragraph 91 states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. This is, by definition, harmful. The Framework provides that substantial weight should be given to any harm to the Green Belt. In such cases developers will need to demonstrate very special circumstances if projects are to succeed, and such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.

27. The Guidance recognises the negative impact that large scale solar farms can have on the rural environment, particularly in undulating landscapes and requires consideration to be given to landscape and visual impacts and the potential for mitigation for any impacts. Consideration is required to be given to encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, providing that it is not of high environmental value. Where proposals involve greenfield land the proposed use of any agricultural land should be shown to be necessary and poorer quality land should be used in preference to higher quality land and the proposal should allow for continued agricultural use where applicable and/or encourage biodiversity improvements around arrays.
28. In a Ministerial Statement on 25 March 2015, Sir Eric Pickles, the former Secretary of State for Communities and Local Government, emphasised that meeting energy goals should not be used to justify the wrong development in the wrong location including the use of high quality agricultural land. Large scale ground mounted solar photovoltaic farms that involve agricultural land should demonstrate that this is necessary and that poorer quality land is to be used in preference to land of a higher quality.
29. In respect of heritage matters, the Framework requires consideration to be given to the particular significance of any heritage asset that may be affected by a proposal. When considering the impact of a proposed development on that significance great weight should be given to the asset's conservation. Where a proposed development would lead to less than substantial harm to the significance of the heritage asset this harm should be weighed against the public benefits of the proposal¹⁰.

Other Agreed Facts

30. No agreed statement of common ground has been submitted by the parties. However, Wychavon DC has confirmed in its statement of case that there are considered to be a number of areas of common ground with the appellant¹¹. These are; the vehicle movements associated with the proposed development would be accommodated by the local highway network without detriment to highway safety; there would not be an adverse impact on flooding or surface water drainage; no objections are raised on archaeological, noise or heritage asset grounds; subject to detailed enhancement, management and mitigation

¹⁰ Paragraphs 129, 132 & 134 National Planning Policy Framework

¹¹ Doc 6

conditions there would not be an adverse impact on biodiversity; the site does not constitute the best and most versatile land being classified as Grade 3b land; there is no evidence that the proposal would result in any unacceptable glint or glare; and no contributions for planning obligations are required.

The Case for Mr Markus Wierenga – Green Switch Developments Ltd

31. The appellant's case is set out in the two appeal statements in respect of the two appeals dated October 2015¹², the final comments dated December 2015¹³ and the letter dated 4 March 2016¹⁴ in relation to the implications of the SWDP. The material points are as follows.
32. The applications follow pre-application discussions with both Councils, a public exhibition regarding the proposal and previous applications to the respective Councils that were withdrawn following advice that further information was required.

Planning Policy and Guidance

33. The appeal proposal would result in the temporary use of the site for a period of 25 years to generate sufficient electricity from a renewable resource to meet the needs of approximately 2,682 homes, off-setting the emissions of 4,470 tonnes of CO₂ annually, while maintaining the site in agricultural use with enhanced ecological benefits. This is considered to represent sustainable development in line with national and local policy including strategic policy SWDP 1 of the SWDP. The proposal would also represent a form of agricultural diversification facilitating ongoing investment in the wider agricultural holding in line with national policy and the SWDP 2030 vision to support rural businesses. A nearby connection to the national electricity distribution network is available and there is a willing landowner. The proposal is deliverable and would make a significant contribution to renewable energy generation and carbon emission reduction targets which is supported by policy SWDP 27 of the SWDP. This policy does not require proposals to be compliant with other policies of the SWDP but to have regard to them and the reasoned justification acknowledges that the development of renewable energy and low carbon energy is a key means of reducing South Worcestershire's carbon dioxide emissions. It is considered that the proposal is supported by the development plan policies and the Framework's provisions.
34. The Ramblers Association in their consultation response consider the proposal has a minimal impact on the wider countryside and should not be visible from the M5 motorway or from the countryside to the west. It allows for continued agricultural use and incorporates biodiversity improvements and accords with the Guidance.

¹² Docs 7 & 8

¹³ Doc 9

¹⁴ Doc 17

Site Search and Identification

35. The applications were accompanied by an assessment of alternative sites¹⁵. This highlights the limited number of potential sites within Wychavon for a ground mounted solar farm and the lack of potential roof space. The SWDP objective to provide a better environment for today and tomorrow supports the proposal.
36. There have been relatively few large scale roof mounted solar proposals since the Feed in Tariff was introduced which reflects the difficulties associated with such development. Changes to the tariff are likely to dramatically reduce the financial attractiveness of any roof mounted array and it is considered that should suitable roof spaces be identified they should be developed as well as, not instead of other large scale solar arrays. Wychavon DC has stated that it has no grounds to contest any of the points and officers are unable to identify a suitable alternative previously developed site.
37. The government's intention is not to replace ground based solar with rooftop panels but for the two to support each other. The letter to local authorities by Greg Barker MP dated 22 April 2014 states that there is still a place for larger scale field based solar in the UK's energy mix. The financial, technical and physical ability to connect such development to the grid and the availability of such a site are critically important to project deliverability.

Impact of the proposed development on the Green Belt and very special circumstances

38. The site lies within the West Midlands Green Belt. It is accepted that the proposal represents inappropriate development. Very special circumstances have been put forward that demonstrate that substantial weight should be given to the considerable benefits associated with the proposal. The need for renewable energy infrastructure to be deployed beyond the urban areas is supported by the reasoned justification of policy SWDP 2 that recognises that it is appropriate that development should be restricted in the open countryside to those proposals supported by more specific SWDP policies such as policy SWDP 27 relating to renewable and low carbon energy. A number of solar farms have previously been granted within Green Belt locations throughout the UK and which demonstrate very special circumstances.
 - a) South East of Yarnton, Cherwell District Council – 5MW solar farm on 18.25ha within the Oxford Green Belt. Very special circumstances were demonstrated to include a well contained and well screened site, temporary development, continuing agricultural use and sustainability. Permission was subsequently granted.
 - b) Burton Farm, Bishopston, Stratford-upon-Avon – 4.4MW solar farm on 12.09ha within the Green Belt. Very special circumstances were demonstrated to include the limited visual sphere of impact of the solar farm, wider environmental benefits, farm diversification, ongoing agricultural activity, biodiversity enhancements, proximity to the electricity transmission system and temporary development. Permission was subsequently granted.

¹⁵ Doc 10

- c) Clayhill Farm, Westoning, Central Bedfordshire - 21MW solar farm on 36.2ha within the South Bedfordshire Green Belt. Very special circumstances included a well screened site and the generation of renewable energy. Permission was subsequently granted.
39. A recent appeal decision¹⁶ for a 10 MW solar farm in the Oxfordshire Green Belt was allowed. The Inspector found that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. It was noted that renewable energy projects are not prohibited outright in the Green Belt, it is a matter of balancing any benefits they would bring forward against any harm they would cause. The Inspector accepted that the proposal would bring forward benefits of a significant scale in terms of the production of renewable energy and assist the ongoing viability and stability of a rural business. The latter draws strong support from paragraph 28 of the Framework.
40. A more recent appeal decision¹⁷ for a 2.642MW solar farm in the Metropolitan Green Belt found the low level and horizontal nature of this type of development, the development not involving the removal of any existing trees or hedgerows and the sowing of the land with a wildflower seed mix and the biodiversity improvements combined with the renewable energy generating capacity to carry substantial weight in favour of the development. These factors apply to the appeal proposal.
41. The appeals proposal was accompanied by a report outlining the very special circumstances for the development in the Green Belt¹⁸. The circumstances are considered to be:
- a) The scheme has been designed to minimise its landscape and visual impact through its low height and it would have little visual impact due to the flat nature of the land. The Ramblers Association response recognises that considerable effort has been made to mitigate the loss of outlook from rights of way with little visibility from the M5 and the countryside to the west and the strong wooded hedgerow to the east provides an effective screen. There would be some impact to the south on dwellings in Rectory Lane but not on the wider countryside and to the north impact should be minimal.
 - b) The proposal would generate a significant amount of renewable energy sufficient to meet the needs of approximately 2,682 average homes and reduce CO₂ emissions by 4,470 tonnes annually for 25 years. This would make a sizeable contribution to the aims and ambitions of Wychavon, Worcestershire and the UK and this merits appropriate weight given that the Framework describes the delivery of renewable and low carbon energy as central to the economic, social and environmental dimensions of sustainable development.
 - c) The proposal is temporary, would be installed within 3-4 months and after 25 years would be decommissioned, dismantled and removed in a 1-2 month period. There would be little soil disturbance and the temporary nature can

¹⁶ Planning Inspectorate Ref: APP/C3105/A/13/2207532

¹⁷ Planning Inspectorate Ref: APP/B5480/A/14/2227508

¹⁸ Doc 11

be controlled by condition. The temporary nature of the proposal has been confirmed in a number of solar farm planning appeal decisions¹⁹.

- d) There would be no permanent loss of agricultural land, agricultural activities could continue throughout the life of the solar farm as the scheme has been designed to facilitate sheep grazing and the land would be given a period of rest from intensive agricultural activities with the solar farm contributing to agricultural diversification and ongoing investment. The diversification benefits were recognised in a recent appeal decision²⁰ where the Inspector acknowledged that the development had to be seen in the context of farm diversification that would support the overall farm business. A solar farm provides far greater economic security than many other forms of diversification. Financial subsidies are provided for 20 years and are a guaranteed index-linked stream of income for this entire period or as long as the farm is operating whilst also allowing continued agricultural use of the land and biodiversity improvements.
- e) The site is not the best and most versatile agricultural land and Wychavon DC accepts that poorer quality agricultural land has been used in preference to higher quality land. The scheme has been designed to Building Research Establishment guidance to enable the land underneath the panels to be grazed by sheep.
- f) The assessment of alternative sites²¹ highlights the limited number of potential sites within Wychavon for a ground mounted solar farm and the lack of potential roof space. Any alternative site which utilised the available connection to the grid is likely to also be within the West Midlands Green Belt.
- g) The location, capacity, design and economic viability of any development which would generate electricity for export to the grid is dependent on the cost effective availability and deliverability of a suitable grid connection. There is available connection to the Upton Warren substation which lies adjacent to the site. The UK Solar PV Strategy Part 2 recognises the grid connection issues and they are also acknowledged in the Technical Research Paper "Planning for Renewable Energy in Worcestershire" published by Worcestershire County Council and reiterated in the Renewable Energy Capacity Study for the West Midlands commissioned by Telford and Wrekin Council. The issues relate to cost and maximum capacity which limits connections and requires costly upgrading or modifying. Given the emphasis on increasing the installed renewable energy generating capacity within the UK this scarcity of grid capacity places additional weight on optimising the use of any available grid connection.

Recent appeal decisions²² have recognised that the lack of an available and affordable grid connection would prevent an otherwise suitable site becoming economically viable although available capacity is but one element in the

¹⁹ Planning Inspectorate Refs: APP/D0840/A/14/2212340, APP/D0840/A/14/2213745, APP/Z6950/A/14/2213400, APP/O00Y1138/A/13/2203766, APP/D3315/A/13/2203242

²⁰ Planning Inspectorate Ref: APP/D0840/A/14/2213107

²¹ Doc 10

²² Planning Inspectorate Refs: APP/Y3940/W/15/3005078, APP/X2410/A/14/2227418, APP/V2635/W/14/3001281

overall planning balance. In some instances given the practical need to limit the distance between the generation capacity and the grid, the availability of poorer quality land suitable for solar PV must be extremely constrained. The availability of a grid connection is not an overriding factor in the planning balance, but the lack of a grid connection is akin to the inappropriateness of a housing site where access and service connection costs are uneconomic, impractical and unsustainable. The availability of an affordable grid connection represents a significant contributory factor when identifying a suitable site for a solar farm. Any suitable site is likely to be within the Green Belt in either district due to the extent of the Green Belt designation and as grid connection costs increase with distance.

The Wychavon Intelligently Green Plan 2012-2020 published by Wychavon DC confirms that the appeal site is located within an area of above average domestic electricity consumption. The Renewable Energy Capacity Study for the West Midlands confirms that on average approximately 6% of electricity transported across the distribution networks is reported as losses. The decentralised generation of electricity from a renewable resource in close proximity to such domestic consumption would benefit from lower transmission losses.

- h) A wildflower meadow would be created throughout the site in accordance with the Building Research Establishment's "Biodiversity Guidance for Solar Developments" and in line with other reports on maximising environmental benefits from solar parks²³. The officer's report acknowledges that the proposed wildlife buffers and recommended working practices would also provide an opportunity to create areas of species rich grassland which would have a higher net biodiversity value than the current site use.
 - i) Community benefits would be available through the provision of a new footpath along the southern boundary and a new picnic area. A community renewable energy scheme has been offered which would involve the installation of solar domestic equipment to properties in close proximity to the site with the agreement of the relevant occupiers. The park would also provide economic and employment benefits.
42. These very special circumstances outweigh the inappropriate nature of the proposed development and on this basis are compliant with development plan policies.

Need for Renewable Energy Capacity

43. The need for the UK to increase its installed renewable energy capacity is documented within the Planning Statement²⁴ and is highly supported within the Framework. The Framework does not require the overall need to be demonstrated. When located in the Green Belt elements of many renewable energy projects will comprise inappropriate development and developers will need to demonstrate very special circumstances that may include the wider

²³ Bumblebee Conservation Trust Guidance; Natural England Technical Advice Note (TIN 01); Solar Parks – Opportunities for Biodiversity, German Renewables Agency, December 2010.

²⁴ Doc 12

environmental benefits associated with the increased production of energy from renewable sources. The proposal would generate a significant amount of energy as set out above.

44. The Wychavon Intelligently Green Plan 2012-2020 confirms that 77% of respondents support large scale renewable energy generation. It aims to double renewable energy in the district from 2011 levels by 2020. The Plan contains actions for delivery including working with Worcestershire County Council to market Wychavon as an attractive location for renewable energy generation and green businesses.
45. The draft Renewable Energy Strategy prepared by Worcestershire County Council acknowledges Worcestershire's reliance on centralised power generation and the increasing need for additional power sources. The National Grid's Winter Outlook 2014/15 notes that electricity margins are tighter than they have been and appropriate dispersed generation can help to stabilise the balance between supply and demand.
46. The Worcestershire Climate Change Strategy 2012-2020 notes the reliance of Worcestershire on imported electricity. Whilst there has been an increase in renewable energy generation from wind, hydro and solar in the County this makes up a very small proportion of the total energy used in the County.
47. There is a need for renewable energy capacity within both the Wychavon and Bromsgrove areas. There is a total electricity consumption in Wychavon of 615GWh/yr and 320.1GWh/yr in Bromsgrove. The UK Government target for 2020 is at least 15% of electricity being generated by renewable sources which would equate to 92.25GWh in Wychavon. 9.3% of this would be met by the appeal proposal and which would also represent more than a 10% increase in renewable energy generation within Worcestershire. The final version of the Renewable Energy Research Paper published by Worcestershire County Council states that as of October 2015 there was around 115MW of installed or consented larger scale renewable energy capacity in the county mainly derived from solar PV panels. There was also a further 40MW awaiting a decision. If all schemes were approved and built they would generate approximately 155GWh/yr of electricity and which would be capable of generating approximately 20% of Worcestershire's demand. The need for further installed electrical renewable energy capacity in both districts is both significant and urgent and should be attributed appropriate weight in the planning balance.

Benefits of the proposed development

48. The proposal would provide considerable renewable energy, agricultural, biodiversity, community and deliverability benefits as set out above and which should be given appropriate weight.

Landscape evidence

49. A Landscape and Visual Impact Assessment (LVIA)²⁵ accompanied the applications and a further appraisal of the effects of the proposal has been undertaken²⁶. This responds to Wychavon DC's second reason for refusal. The

²⁵ Doc 2

²⁶ Doc 7

September 2014 appraisal established that the visual envelope of the site is generally defined by topography and vegetation. The Zone of Theoretical Visibility (ZTV) is particularly limited to within 2km of the development with visibility in reality being further restricted by hedgerows, wooded areas, other intervening vegetation, farm buildings and other development. The landscape is not of high value and by virtue of existing man-made elements would have a lower susceptibility to change.

50. The potential visual impacts established that impacts of moderate adverse or above could be generated to the footpaths UW 572/74/75/78/79 located within the site, Bridleway UW559/60 to the south west and footpath DG601 to the north. In the wider context of the extensive public rights of way network only a limited number are affected by the proposal and these are within or in immediate proximity to the appeal site.
51. Views from the public footpaths are not only of green space but experience views of the M5 motorway. The site is also crossed by three 66KV overhead lines and there are views of agricultural and industrial units, and the radio transmitting station. The views include man-made features.
52. The proposed planting would help screen views of the site within 5-7 years from the rights of way. This has not received an objection from the Ramblers Association. Several footpaths already experience tall hedge lined corridors and funnelled views and are intrinsic to the local landscape character and the introduction of hedge lined footpaths would therefore not be out of character and would help to integrate the site within the wider landscape.
53. The landscape already contains a number of existing geometric elements including the M5 motorway and the high voltage power lines. The field boundaries are to be retained and improved and the fields would not be subdivided into smaller enclosures. Perimeter fencing would follow the lines of existing vegetation and would not be linear other than following existing straight hedgerows. The alignment of panels to hedgerows and trees creates a more organic edge dictated by the hedgerow pattern. The effect is not a geometric pattern but one that responds to the irregular field boundaries and safeguards the organic landscape.
54. The filling of hedgerow gaps can only be deemed to positively enhance the landscape.

Cultural Heritage Evidence

55. This evidence responds to the second reason for refusal in Bromsgrove DC's decision notice²⁷.
56. The Framework defines heritage significance as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic and its significance derives not only from the physical fabric of a heritage asset but also from its setting. Setting does not constitute a heritage asset in itself and therefore the assessment of harm must relate to the heritage asset and not its setting.

²⁷ Doc 8

57. The issue of identifying harm to heritage assets and their settings has been the subject of a number of High Court judgements. This is followed through in the Framework which stipulates that great weight should be given to the heritage asset's conservation and that substantial harm to or loss of a Grade II listed building should be exceptional whilst substantial harm to or loss of assets of highest significance, most notably scheduled monuments, protected wrecks, battlefield and Grade I and II* Parks and Gardens should be wholly exceptional.
58. Developments which would cause substantial harm to or total loss of significance of a heritage asset should be assessed against specific tests and should deliver substantial public benefits which outweigh any harm or loss. Where a proposal would lead to less than substantial harm to the significance of the designated heritage asset this harm should be weighed against the public benefits of the proposal.
59. A High Court judgement²⁸ held that "for harm to be substantial the impact on significance was required to be serious, such that very much, if not all, of the significance was drained away" and that in relation to setting "an impact would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced". It is therefore the effect of the impact upon significance where harm is derived. Whilst small effects can result in substantial harm it has been found that substantial harm is situated at the extreme end of the scale.
60. As set out within Historic England's "Setting of Heritage Assets" the protection of the setting need not prevent change. What is critical is whether that change is harmful, beneficial or neutral to the significance of the asset. This has been supported by a further High Court judgement²⁹ which found that preserving listed buildings and conservation areas in terms of character, appearance and setting means doing no harm which does not equate to no change.
61. Bromsgrove DC's refusal relates to West Lodge and Bowling Green Farmhouse and which were assessed within the submitted Heritage Assessment³⁰ and which established slight adverse impacts which would be temporary in nature. Both assets have been revisited for the appeal.
62. West Lodge is situated on higher ground to the north west of the appeal site and segregated from it by the M5 motorway. It has its origins in the 1600s with alterations in the mid-18th and 19th centuries. Its barn is individually listed. It has views of the bridge over the motorway, pylons, roofs within the business park and the transmitters at the transmitter station. Despite these intrusions its setting contributes to its significance.
63. The appeal site is not however visible from the principal elevation of the property and views to the south-east are entirely screened from view by intervening vegetation. There would be no sense of the presence of the solar farm from the asset and no loss of significance through visual effects to its setting.

²⁸ Lang [2012] EWHC 4344 (Admin)

²⁹ Lindblom [2014] EWHC 1895 (Admin)

³⁰ Doc 13

64. Bowling Green Farmhouse dates from the 17th century with alterations and extensions in the 19th and 20th centuries. The property lies to the north east of the appeal site in an elevated position and there are views across open countryside to the distant Malvern Hills. The appeal site is located within the middle distance of this view and is seen as a series of strips of agricultural land between hedgerows. The view also includes highly visible and intrusive modern elements, principally two power lines and the radio transmitters. The M5 motorway is partially visible to the west and housing to the east. The centre of the view includes two wind turbines and the large business park roofs.
65. The setting does contribute to its significance in that the buildings' original rural context can still be experienced and appreciated. Due to the significant and substantial modern intrusions there is visual encroachment onto the rural setting of the house so as to lessen the contribution made by setting to the asset's significance.
66. The solar park would be partially visible from Bowling Green Farm but these views would be broken up by intervening tree cover within hedgerows. The solar panels would be facing to the south eliminating potential intrusive glint. There would therefore be a change to the current view and both the LVIA and the further landscape appraisal for the appeal confirm this is not of a level to warrant the refusal of permission.
67. Proposed mitigation measures would reduce the visibility of the appeal site from Bowling Green Farm through the cessation of hedge cutting, and allowing vegetation to grow to between 4-5 metres within the site and on its boundaries. The overall effect would be to limit views into the appeal site from the elevated position of Bowling Green Farm and thus considerably reduce the visual effects of the proposal from the heritage asset. This is expected to take 5-7 years to establish and would provide sufficient screening all year round.
68. The effect of reducing the degree of visibility would limit the impacts upon the significance of the asset as the sense of encroachment into the rural setting of Bowling Green Farm would be much reduced with the visibility of the rear of the panels being restricted to occasional glimpses and confined to the southernmost section of the site adjacent to Rectory Farm. The degree of change and the effect on the significance of the asset would be minimal and would constitute less than substantial harm in the terminology of the Framework. This would be at the lowest end of any defined spectrum and equates to the slight adverse effects identified within the Heritage Assessment.
69. The Barnwell High Court judgement³¹ established that any planning decision which involves harm to a heritage asset is not a simple matter of the application of equal weight to opposing issues within the planning balance. The statutory duties under Sections 66 and 72 of the Listed Buildings and Conservation Areas Act require the decision maker to have special regard to the desirability of preserving the building or its setting. Justice Lindblom in dealing with Forge Field³² confirmed that the duties in the Act do not allow the desirability of preserving the settings or listed buildings and the character and appearance of

³¹ Barnwell Wind Energy Ltd v East Northamptonshire District Council and Others [2014] EWCA Civ 137

³² Lindblom [2014] EWHC 1895 (Admin)

conservation area to be considered as mere material considerations to which weight can be attached as an authority sees fit. Where a development would harm the setting of a listed building or the character and appearance of a conservation area it must give that harm considerable importance and weight. The statutory duty serves to inflate the importance of the degree of harm in the planning balance irrespective of whether it is determined to be represent substantial or less than substantial harm.

70. The degree of weight was further clarified by Howell J QC³³. As harm may vary, the considerable weight as a matter of law must be presumably the minimum weight that must be assigned however small any such harm may be rather than the invariable weight to be given to any such harm regardless of its degree.
71. In the case of West Lodge, no visual effects would be experienced due to the inability to view the appeal site from the asset. In respect of Bowling Green Farm, the effects represent very low levels of harm within the spectrum of "less than substantial harm" due to both existing modern visual intrusion and through the landscape mitigation measures. In applying the requirements of Section 66 the minimum degree of weight should be required with respect to the preservation of the setting of Bowling Green Farm in light of the perceived limited level of harm.
72. The original application was accompanied by a comprehensive archaeology and cultural heritage assessment³⁴. No objections were raised by the County Archaeological Officer and Historic England and no reference is made in the Councils' reports to cultural heritage impacts. Whilst Bromsgrove DC's decision notice refers to policy S39 of its Local Plan this is titled "Alterations to Listed Buildings" and the proposal does not propose any alterations to listed buildings. It is concluded that the impact of the proposal on heritage assets is not of a magnitude that breaches the Framework and the heritage impact is not of a level to warrant a refusal.

Conclusion

73. The Rectory Farm site has been identified following a sequential spatial analysis to identify a suitable site within the Bromsgrove and Wychavon area. It has been demonstrated that very special circumstances exist to warrant the development of the site within the Green Belt. The identification of the site, its design and preparation and submission of the planning applications accords with the 10 commitments for solar farms prepared by the Solar Trade Association.
74. The impact of the proposal on heritage assets is not of a magnitude that breaches the Framework or warrants refusal.
75. The proposal would make a sizeable contribution to Bromsgrove, Wychavon, Worcestershire and national renewable and CO₂ reduction targets. It is considered that considerable benefits would arise from the appeal proposal but further mitigation could be provided by conditionally excluding the western fields from the proposal which would reduce the installed capacity to 5.38MW but would further reduce the impact of the proposal on any public footpaths and their users.

³³ [2015] EWHC 539 (Admin)

³⁴ Doc 13

This should not be construed as an acknowledgement that the scheme would have a significant impact but is a gesture of goodwill by a developer attempting to placate all parties and deliver an important project. Having regard to the Wheatcroft principles no party is likely to be prejudiced by the conditional exclusion of these fields.

76. The proposal is in accord with the SWDP, the Framework and Guidance. The demonstrable benefits weigh considerably in its favour and outweigh any temporary and reversible impacts. Planning policy provides a presumption in favour of sustainable development and the appeals should be allowed.

The Case for Wychavon District Council

77. Wychavon DC's case is set out in its letter dated 4 December 2015³⁵. The material points are as follows.
78. The Framework states that the purpose of the planning system is to achieve sustainable development with the three dimensions/roles of sustainable development being economic, social and environmental. There is a presumption in favour of sustainable development which means that schemes should be approved where they are in accordance with the development plan. Where a development plan is absent or silent planning permission should be granted unless the harm caused significantly and demonstrably outweighs the benefits of the scheme or where specific policies of the Framework indicate development should be restricted such as those related to the Green Belt. This site is located in the Green Belt.
79. It is not considered that the impacts of the scheme can be made acceptable. Proposals for development in the Green Belt will only be permitted where they would not detract from the open character of the Green Belt and would not conflict with the purposes of including land within it. The proposal would not be in accord with the development plan. The proposal is contrary to policy SWDP 2 which seeks to control development within the Green Belt to that which would not detract from its open character.
80. A relatively recent appeal decision³⁶ has tested the impact of solar parks on the Green Belt. The Inspector found that the concept of openness does not relate directly to visibility or visual harm but to a lack of development. The solar park and associated works would significantly reduce the openness of the Green Belt adding appreciably to the substantial harm by virtue of inappropriateness. Although the Framework recognises the very special circumstances may include the contribution to the reduction in greenhouse gases, this does not indicate that such a reduction, in isolation, outweighs harm by virtue of inappropriateness. In order to justify inappropriate development, all other considerations must clearly outweigh the harm to the Green Belt by virtue of inappropriateness and any other harm.
81. The weight to be attached to the harm to the Green Belt by virtue of inappropriateness is substantial. The harm resulting from loss of openness is added to this.

³⁵ Doc 6

³⁶ Planning Inspectorate Ref: APP/Y3615/A/14/2212923

82. It is not considered that the submission has satisfactorily demonstrated very special circumstances. The benefits are noted but it is not considered that either individually or cumulatively these benefits would clearly outweigh the harm to the Green Belt identified.
83. The proposed development is not considered to be appropriate to, or integrate with the landscape character of the area and would not safeguard, restore or enhance the character of the natural environment in which it is proposed.
84. The Framework states that local authorities should approve applications for energy development if its impacts are or can be made acceptable. In this case, notwithstanding the proposed landscaping the proposal would appear unduly visually dominant and would detract from the visual amenities and the rural character and appearance of the rural landscape. The landscaping scheme would not overcome this detrimental visual impact.
85. Valued landscapes should be protected and enhanced under the Framework. No definition is given but it is reasonably considered that this landscape is valued by virtue of its contribution to the rural character and appearance of the surrounding landscape, the number of public rights of way that cross the site and the site's designation as Green Belt. It is not considered that the proposal would protect or enhance this valued landscape.
86. The majority of the site falls within the Principal Timbered Farmlands landscape type with the part of the site within Bromsgrove falling into the Wooded Estatelands landscape type. The key characteristics of the Principal Timbered Farmlands include the notable pattern of hedgerow trees, hedgerow boundaries to fields and small scale landscape with hedgerow trees creating filtered views. The pattern of hedgerows is important not only in providing the basic fabric for the hedgerow tree populations but also in emphasising scale and enclosure. It is vital for the retention of landscape character that the organic pattern of enclosure is preserved and that a geometric pattern is not superimposed by subdividing fields or enlarging others and employing straight fence or hedgelines.
87. The small scale and organic character of the local landscape can be clearly appreciated in views from the elevated footpath over the motorway and the imposition of a large scale solar park onto a small scale landscape with straight lines of panels and fencing within an organic landscape would not be sympathetic to the landscape character.
88. The proposed landscaping would place the existing footpaths within corridors of high hedging and fencing, funnelling views and removing the openness and enjoyment of views across open countryside that are currently experienced.
89. The low height of the solar panels is not disputed. However, the associated development would be higher, with the switch room and meter room being 4.485 metres high, the inverter building 3.635 metres high, the fencing and swing gate 2.412 metres high and CCTV camera towers over 3 metres high. It is not considered accurate to say that the proposed development would have little visual impact.
90. The appellant's statement refers to a Section 106 Agreement that was prepared in respect of a community benefit scheme for the provision of solar equipment to neighbouring properties. This would not appear to have been submitted at the

time of the planning application and is not included in the appeal appendices. Whilst the appellant claims that this would represent a very special circumstance it not clear how such a community scheme would, or could be secured through the planning system and would not be considered to meet the requirements of the Community Infrastructure Levy Regulations 2010 as it would not be necessary to make the development acceptable in planning terms.

91. The appellant accepts that the proposal would represent inappropriate development within the Green Belt. It is suggested that the application was refused on the basis of the perceived harm to the Green Belt. As the proposal would constitute inappropriate development, then by definition, the proposals would be harmful to the Green Belt in line with the Framework.
92. It is agreed that the local planning authority found the development acceptable in relation to a number of other grounds. However these would only be acceptable subject to relevant conditions.
93. The local plan against which the proposal was determined was silent on solar farm developments. As such the last bullet of paragraph 14 of the Framework was engaged which states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.
94. It is the Council's case that there are specific policies in the Framework relating to the Green Belt that indicate that development should be restricted and that the adverse impacts of the proposals would significantly and demonstrably outweigh any benefits. This is a similar conclusion to that reached by the Secretary of State when considering a similar appeal³⁷.
95. The appellant has referred to the core planning principles listed under Paragraph 17 of the Framework. However it would appear that there are some purposeful omissions where the wording of the Framework "protecting the Green Belts around them" has been left out.
96. Reference has been made by the appellant to other permissions for solar farms in the Green Belt. However, these are all individual Council decisions and not decisions by Planning Inspectors.
97. Proposals should be considered on their own merits. Appeal reference APP/C3105/A/13/2207532 referred to by the appellant is a brief decision where the Inspector found the positives of the scheme to be the benefits of renewable energy production and assisting with the ongoing viability and stability of a rural business and which amounted to very special circumstances. There was no significant explanation how the Inspector in that case came to that conclusion.
98. In another cited case³⁸ the Inspector considered there would be a significant net gain for biodiversity and this, combined with the generation of renewable energy would constitute very special circumstances. This is significantly different to the current proposal where the Council's Landscape and Natural Heritage Officer raised concerns regarding the impact of the proposal. Neither of these cases is

³⁷ Planning Inspectorate Ref APP/T3535/A/13/2193543

³⁸ Planning Inspectorate Ref APP/B5480/A/14/2227508

considered to set any form of precedent for allowing inappropriate development in the Green Belt.

99. The planning application was accompanied by an assessment of alternative sites³⁹. This assessment does appear to demonstrate that there are other grid networks within the district that would be outside the Green Belt. This is further evidenced by seven listed applications for solar parks/farms that have been granted permission in the district within the last two years.
100. It is not clear what proportion of the appellant's stated district need for renewable energy has been met by these approved schemes and it is not considered that it can be evidenced that Wychavon has any urgent or significant renewable energy need. The reference to the installed and consented renewable energy schemes in Worcestershire totalling 82MW does not include a list of schemes and it is not known how accurate this figure is as of today's date or whether the consented schemes have been included.
101. The fact that there would be no permanent loss of agricultural land is not considered a benefit of the scheme. If the land was not developed then there would be a continued agricultural use. The continued use for sheep grazing would at best be a neutral point and there is no evidence that the site has been subject to intensive agricultural activities that would benefit from a period of rest.
102. The appellant has suggested that the western fields could be conditionally excluded from development. Such a proposal has not been formally considered by the local planning authority or been through a statutory consultation process. This suggestion would seem to represent an acknowledgement that the existing scheme as submitted would have a significant impact.
103. A balancing exercise of associated benefits and negative impacts needs to be undertaken. The proposal represents inappropriate development within the Green Belt and by definition is harmful. The development would have a significant harmful effect on the openness of the Green Belt. The submission has failed to demonstrate the very special circumstances that outweigh the significant and in principle harm to the Green Belt.
104. The siting of the solar farm in the open countryside by virtue of its scale and siting would result in an alien, urbanising feature in the rural landscape. Notwithstanding the proposed landscaping, the proposal would appear unduly visually dominant and would fail to integrate, safeguard or enhance the character of the surrounding natural environment. The proposal fails to accord with policies SWDP 2 and SWDP 25 of the SWDP and national policy guidance.
105. Whilst weight is attached to the contribution the development would make to renewable energy generation this is considered to be significantly and demonstrably outweighed by the negative impacts of the development and the appeal should be dismissed.

³⁹ Doc 10

The Case for Bromsgrove District Council

106. Bromsgrove DC's case is set out in its report and update to committee dated 7 September 2015⁴⁰. The material points are as follows.
107. The proposal for a solar park would not fall into any of the exceptions set out in Paragraph 89 of the Framework and amounts to inappropriate development in the Green Belt. In such cases paragraph 91 requires applicants to submit a case for very special circumstances in relation to renewable energy projects.
108. The proposal would result in a substantial development of a currently undeveloped area. It would be highly visible from Rectory Lane and from public footpath Nos 572 and 574 which lead from the motorway overbridge on Rectory Lane to the north and along the administrative boundary between Bromsgrove and Wychavon. The harm to openness would be considerable given the size of the application site and there would be harm to visual amenity from public vantage points and a number of residential properties. The harm to openness would be substantial.
109. The applicant has examined the visual impact thoroughly. However, this is not the appropriate test to apply in the Green Belt. The openness of the site does not relate directly to visibility or visual harm but to lack of development. The solar park and associated works would therefore significantly reduce the openness of the Green Belt resulting in substantial harm by virtue of inappropriateness. In accordance with paragraph 87 of the Framework inappropriate development is by definition harmful. In accordance with the Bromsgrove LP, the Framework and established case law, the harm arising from inappropriateness and any other harm to the Green Belt must be accorded substantial weight.
110. The applicant's planning statement⁴¹ provides a detailed policy appraisal and considers that there are very special circumstances that outweigh the harm caused. The appraisal omits the key point that the presumption in favour of sustainable development provided in paragraph 14 of the Framework does not apply in the Green Belt where policies restrict development.
111. The ecological enhancement and community benefits cited do not amount to very special circumstances. The need to provide for renewable energy generation is an important part of national policy and the contribution the proposal would make is accorded moderate favourable weight.
112. The LVIA⁴² finds that the impact on the surrounding landscape would be slightly adverse over the lifetime of the development and slightly beneficial thereafter. Worcestershire County Council's response to Wychavon DC suggested that the impact from additional sites in Bromsgrove should be considered. The time period of 25 years is considerable and it is not considered that the proposal is temporary and the temporary nature of the development and the lack of visual impact from receptors is given limited favourable weight. The larger part of the site would be highly visible from the northern part within Bromsgrove district.

⁴⁰ Doc 14

⁴¹ Doc 12

⁴² Doc 2

113. The 2km alternative sites assessment area of search is limited with countryside areas outside the Green Belt not having the same constraint. The practicalities of grid connection do not amount to very special circumstances and a number of recent appeal decisions have made this clear.
114. The government's focus is to provide solar PV on domestic and commercial roof space and on previously developed land. In considering applications in the Green Belt a balancing exercise must be carried out. In this case the need to provide renewable energy carries moderate weight but is not sufficient to overcome the harm to the openness of the site which carries substantial weight.
115. The methodology used by the applicant for addressing the impact of the development on the setting of surrounding listed buildings is considered to be inadequate. Where potential harm has been identified a more detailed assessment should have been carried out particularly with regard to the setting of Bowling Green Farmhouse and West Lodge.
116. The 25 year lifetime of the development is not considered to be temporary. There is likely to be less than substantial harm to the setting of the heritage assets. This harm has not been outweighed by the public benefits associated with the need for renewable energy generation and the proposal is contrary to policy S39 of the Bromsgrove LP and national policy.
117. No other concerns are raised which would justify the refusal of permission.

Written Representations

Appeal Stage

118. The Planning Inspectorate received 1 response to Wychavon DC's notification letter of 3 November 2015 and 1 response to Bromsgrove DC's notification letter of 6 November 2015. The responses are on the case files. The letter from Dodford with Grafton Parish Council confirms that it has no objection but would like to see the part of the site that falls within the Dodford with Grafton Parish Council area properly screened and the land be put back to its original condition once the panels have been removed.
119. An objection from local resident Ms Janis Hodgkins states that the fundamental reasons for rejecting the application have not changed and a reversal of this decision would result in a blot on the Green Belt landscape and create a precedent for others to follow.

Application Stage

120. Written representations received at the application stage have also been taken into account and are on the case files. They are summarised in Wychavon and Bromsgrove DC's officer reports⁴³. Wychavon DC records 5 letters of objection from local residents. In addition to the representations raised by a local resident at appeal stage the main concerns are: additional buildings are now proposed that were not in the original application; the proposal would industrialise agricultural land and would be visible from local houses and the motorway; impacts on ecology; the benefits would not outweigh the disadvantages; this is

⁴³ Docs 15 & 16

inappropriate development in the Green Belt and would impact on its openness; impact on Upton Warren Conservation Area; concerns with the use of Rectory Lane by construction and maintenance vehicles; and the proposal would have a severe financial impact on nearby properties.

121. Responses received from consultees and other organisations at the application stage have also been taken into account and are summarised in Documents 16 and 17. Worcestershire Regulatory Services, the County Highways Authority and Highways England raise no objection. Natural England and Worcestershire Wildlife Trust raise the potential for breeding birds in the nearby Site of Special Scientific Interest (SSSI) to mistake the panels for water and for insects to lay eggs on them reducing a food source for birds. They believe that these issues can be mitigated through the design of the panels being agreed and then monitored. Furthermore, Worcestershire Wildlife Trust suggest that the Construction Environmental Management Plan and Habitat Management Plan should reflect the recommendations made therein and for site management to contribute directly to biodiversity enhancement with monitoring included in any management plan. These comments are supported by Wychavon DC's heritage section which recommends conditions are attached to ensure the protection of hedgerows and trees and to ensure an appropriate design of perimeter fence for wildlife.
122. Worcestershire County Council as Flood Authority comments that the Flood Risk Assessment identifies the site as lying within flood zone 1. The Environment Agency's Flood Map for Surface Water shows a low to high risk of flooding in parts of the site and the grass will require good management to ensure the flood risk is not increased. Measures will need to be taken during construction to ensure that increased run off does not occur from soil compaction and a minimum 8 metre easement should be provided to and around all watercourses, sustainable drainage systems and other water infrastructure for maintenance access.
123. Worcestershire County Council's Historic Environment Planning Officer recommends conditional consent to ensure a programme of archaeological work. Worcestershire County Council's other departments support the application in principle subject to biodiversity restoration, provision for waste, evidence that the panels are outside the flood plain, inclusion of measures for minimising and reducing silt run off, further visual assessment, securing the provision of new rights of way and landscaping details.
124. Bromsgrove DC's drainage engineer has no objections subject to conditions being imposed in relation to surface water drainage. Its Conservation Officer is unhappy with the methodology used for assessing the impact on surrounding listed buildings. Where potential harm has been identified a more detailed assessment should have been carried out and in particular with regard to the impacts on Bowling Green Farmhouse and West Lodge. 25 years is not considered to be temporary and there is likely to be harm to the setting of these assets, albeit less than substantial harm. It is recommended that the application be refused.
125. Upton Warren Parish Council objects to the proposal on the grounds that it represents a substantial development in the Green Belt. The amenities and benefits being offered would not outweigh the considerable disadvantages both visually and in amenity value that the land currently enjoys. It is very likely that

despite the proposed new road, traffic would use Swan Lane and Rectory Lane which is a country lane used by walkers and horse riders.

126. Dodford with Grafton Parish Council makes the same comments as at the appeal stage. Stoke Parish Council does not support the application as it is too close to the motorway and would cause a distraction to drivers. It would have a bad visual impact on the area as a whole and would be built on reasonably good agricultural land.

127. The Ramblers Association are pleased that the ability to walk the rights of way is not compromised. The outlook from all of them would be adversely affected by the loss of surrounding green space. Conditions should be imposed to require new hedges and maintenance of existing. The new path along the southern boundary will go some way towards mitigating the loss of outlook from the existing paths. The proposal appears to have a minimal impact on the wider countryside and it should not be visible from the M5 motorway or from the countryside to the west. To the east the strong wooded hedgerow along the boundary will be an effective screen. The site lies within the West Midlands Green Belt which is of concern. If the Council is minded to refuse on the grounds that the proposal is contrary to Green Belt policy this would be supported.

Appraisal

128. The following appraisal is based on the evidence in the written representations summarised above and my inspection of the site and surroundings. In this section numbers in [] refer to paragraphs earlier in the report. I consider the main considerations upon which the decision should be based are:

- whether the proposal represents inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework (the Framework);
- the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
- the effect of the proposal on the character and appearance and visual amenity of the area;
- the effect of the development on heritage assets and in particular the setting of the listed buildings Bowling Green Farmhouse and barn and West Lodge;
- the effect of the development with regard to other matters raised;
- the contribution of the development towards renewable energy targets; and
- whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Inappropriate Development

129. Paragraphs 89, 90 and 91 of the Framework identify the types of development that are inappropriate in the Green Belt. Paragraph 91 states that elements of

many renewable energy projects will comprise inappropriate development. In this case, the solar panel arrays, control building/substation, inverters, perimeter security fence and cameras would comprise such inappropriate development [26, 79, 80, 81, 91, 103, 107, 120].

130. Both Councils' development plan policies provide a general restraint on development in the Green Belt. This is in accord with the Framework's approach. The Framework states that inappropriate development, by definition, is harmful. Substantial weight should be given to this harm with inappropriate development only being approved in very special circumstances [17, 21, 26, 81, 91, 103].

Effect on the Green Belt

131. The essential characteristics of Green Belts are their openness and their permanence. One of their purposes is to assist in safeguarding the countryside from encroachment [26, 79, 103, 108, 109, 120].
132. The appellant contends that the scheme has been designed to minimise its landscape and visual impact and that it has little wider impact on the countryside. Nonetheless, I concur with both Councils' views that the concept of openness does not directly relate to visibility or visual harm. The critical aspect of openness is the lack of development [41, 80, 109].
133. In my assessment the solar panel arrays and associated development within some 19 hectares of undeveloped countryside would have a significant adverse effect on the openness of the Green Belt. Whilst I acknowledge the presence of the M5 motorway to the immediate west and other man made elements in the landscape such as overhead lines, the radio transmitting station and residential and commercial development to the south and east, an additional development of the scale proposed would have a further substantial impact on the openness of the Green Belt. Even considering Appeal B in isolation, in my view this smaller element of the proposal would still have a significant impact on the openness of the Green Belt [41, 49, 51, 53, 80, 103, 108, 120].
134. This impact on openness would be highly visible and whilst proposed for a temporary period, would be evident for a substantial part of the average person's lifetime. The proposal would fundamentally conflict with one of the purposes of Green Belts to assist in safeguarding the countryside from encroachment. This would add significant harm to the Green Belt [26, 41, 49, 50, 51, 79, 80, 81, 84, 108, 109, 119, 120].

Character and Appearance

135. The applications were accompanied by a Landscape and Visual Impact Assessment (LVIA) which considered the landscape and visual effects of the proposal⁴⁴. The site does not contain any statutory landscape or conservation designations and lies within National Character Area 106 characterised by its diverse range of flat and undulating landscape, sparsely distributed woodland but with a well wooded impression and small pasture fields. It is located within the Regional Character Area of Mid-Worcestershire Forest in Worcestershire's Landscape Character Assessment with the majority of the site falling into the Principal Timbered Farmlands landscape type. The character of this landscape

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- type is described as a small to medium scaled wooded, agricultural landscape characterised by filtered views through densely scattered hedgerow trees. It is a complex, in places intimate, landscape of irregularly shaped woodlands, winding lanes and frequent wayside dwellings. [9, 49, 86, 87].
136. The north western corner and eastern boundary are located within the landscape type Wooded Estatelands which is described as a large scale, wooded agricultural landscape with key visual elements being the many large, irregularly shaped woodlands [9, 86].
137. The appellant's LVIA classifies the landscape value of the site as medium. It acknowledges that views are available from higher land surrounding the site increasing the susceptibility of the landscape to change but finds the hedgerow trees and areas of woodland decrease the scope for inter visibility. It finds the level of impacts during construction to be moderate adverse for the site and slight-moderate to the wider landscape. The impact on the site during operation is considered to be moderate adverse and for the wider landscape to be slight adverse [49, 50, 112].
138. The site is situated on relatively low lying land and comprises a mosaic of some 10 small pasture fields divided by hedges and trees. The wider landscape to the north is more expansive with larger fields on rising ground, whilst to the south and east the landscape is more developed with a mixture of residential and commercial development. The site retains much of the identified character and features of the Principal Timbered Farmlands landscape type despite its position immediately adjacent to the M5 motorway and the presence of other man made elements such as overhead lines. In my assessment the site makes an important contribution to the overall landscape character type [9, 41, 49, 51, 53, 83, 84, 85, 86, 87, 104, 112, 118, 120, 125, 126, 127].
139. Whilst the proposal would retain and enhance the existing field boundaries the development would fill the pattern of small fields with numerous regimented lines of panels and associated development. This would be of a scale and design that would directly contrast with the intimate, small scale of the landscape and its organic boundaries. The pattern of small pasture fields would be lost within the industrial scale of the development and which would be a prominent feature from a number of public viewpoints. I consider that the proposal would be an incongruous and alien intrusion that would be harmful to the landscape character of the area [9, 41, 49, 51, 53, 83, 84, 85, 86, 87, 104, 112, 118, 120, 125, 126, 127].
140. Appeal B relates to a parcel of land that falls within the Wooded Estatelands landscape type. Whilst this is acknowledged, the site appears as part of the more intimate pattern of fields associated with the Principal Timbered Farmlands landscape type due to its small pasture field characteristics and strong hedgerow boundaries to the M5 motorway to the west and to the larger scale agricultural fields to the east. The development of this part of the site as a stand-alone development would similarly be an alien intrusion into the landscape, albeit at a smaller scale and in my assessment would be harmful to the landscape character of the area [9, 41, 49, 51, 53, 83, 84, 85, 86, 87, 104, 112, 118, 120, 125, 126, 127].

Visual Amenity

141. Turning to visual effects, the M5 motorway follows the western boundary of the site and there are a number of public rights of way both within the site itself and within the wider countryside. The LVIA concludes that the proposal would result in very substantial adverse effects during construction and operation to the rights of way within the site, to bridleway UW 559/60 at the northern end of Rectory Lane and crossing the M5, and to footpath DG601 that adjoins the northern boundary and continues in a northerly direction towards the M5. It concludes that impacts to other footpaths to the north east and north would be nil-negligible adverse during operation due to screening and distance and slight adverse to footpath DG584/5 and bridleway DG563/4 west of the M5 [41, 50, 51, 52, 53, 84, 85, 89, 104, 108, 112, 118, 120, 125, 126, 127].
142. I am satisfied from the evidence before me and my own observations on site that due to the location of the M5 within a cutting, the screening to the western boundary and due to the transient nature of motorists and the speeds at which they would be travelling, any visual impacts to users of the M5 would be negligible [49, 52, 126, 127].
143. In my assessment impacts to users of the southern portion of Rectory Lane, Grafton Lane to the north and the A38 to the east would also be negligible due to the topography, screening, distances involved and relatively low height of the solar panels [49, 50, 52, 127].
144. The proposal would be clearly visible from the network of paths that cross the site and traverse the eastern, western and northern boundaries and illustrated by viewpoints 2a, 3a, 3b, 4, 5a and 5b in the LVIA. Whilst the enjoyment of the paths is one of contrasts due to the negative influence of the M5, the views to the east and north are of an attractive and relatively undeveloped pastoral landscape with attractive hedgerow and mature tree boundaries. The paths are well trodden and link to the more tranquil paths to the north east. Users of the paths would be sensitive receptors to visual amenity [49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].
145. The paths within the site confines would be totally changed and dominated by the presence of the solar farm and I concur with the conclusions of the LVIA that the visual impact would be very substantial adverse. I acknowledge that the proposal would provide additional hedgerow planting which the appellant contends would minimise the visual impacts. However, additional hedgerow planting would alter the enjoyment of the paths to provide a dark, tunnel effect and the current experience of the small network of fields would be totally lost. In my assessment the enjoyment of this network of paths would be significantly affected and harmed by the proposal [49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].
146. The impacts to bridleway UW 559/60 would also be substantial. Full views of the proposal would become apparent when leaving the northern end of Rectory Lane and when crossing the bridge over the M5. Whilst these impacts would relate to a relatively short section of the bridleway the views would be elevated and sudden and would contrast significantly with the wider views of the countryside. There would also be views from the wider network of paths to the north and north east, and whilst these would be filtered to some extent by vegetation, the presence of the solar farm would be an alien and discordant

feature that would adversely affect the enjoyment of a significant network of public rights of way [49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].

147. There would also be impacts to residential properties, in particular to Rectory Farm situated to the immediate south of the site. The private amenity area for this property and its upper floor windows would be dominated by the solar farm due to its extent and close proximity. I consider that this would be harmful to the residents' living conditions [120].
148. The effect of Appeal B in isolation on visual amenity would similarly impact on the network of rights of way that traverse the site itself. Whilst there would be less impact on longer distance views due to the orientation of this part of the site, in my assessment the development of the north west corner of the site would cause very substantial adverse impacts to the visual amenities of the rights of way within the site [49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].
149. Taking into account the effect on both landscape character and visual amenity I conclude that the proposal would be harmful to the character and appearance of the area. Whilst I note that the Rambler's Association does not object and the appellant's contention that the proposal would become less visible as planting matures and the proposal has a temporary lifespan, the evidence before me suggests that the planting would take 5-7 years to establish. This is a large proportion of a 25 year permission and which in itself is a substantial proportion of the average person's lifetime. In my view the effects would be evident for a considerable length of time. The proposal would not be in accord with either council's development plan and in particular policy SWDP 25 of the SWDP and saved policy DS13 of the Bromsgrove LP [18, 22, 49, 50, 51, 52, 53, 54, 85, 86, 87, 88, 89, 104, 112, 1119, 120, 125, 126, 127].

Heritage Assets

150. Bromsgrove DC and a local resident have raised concerns at the impact of the proposal on heritage assets, and in particular the Upton Warren Conservation Area (the Conservation Area) and the Grade II listed buildings West Lodge and Bowling Green Farmhouse and barn. In assessing the impact of the proposal on these heritage assets I have taken into account Sections 16(2), 66(1) and 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72(1) requires special attention to be paid to the desirability of preserving or enhancing the special character or appearance of conservation areas. Sections 16(2) and 66(1) require special regard to be paid to the desirability of conserving listed buildings or their settings or any features of architectural or historic interest which they possess. I have also had regard to the Framework and the Planning Practice Guidance: Conserving and Enhancing the Historic Environment. These seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed by this and future generations [15, 23, 29, 55, 115, 120, 124].
151. The appellant provided an Archaeological and Cultural Heritage Assessment with the applications⁴⁵ and has provided further heritage evidence in his appeal

⁴⁵ Doc 13

- submissions⁴⁶. The Conservation Area is situated some 450 metres to the south of the site. Due to the distances involved, the presence of existing development and topography and vegetation there is little inter visibility of the site with the Conservation Area and I am satisfied that the proposal would not cause harm to this designated heritage asset [55-72].
152. West Lodge is situated to the north west of the appeal site and is separated from it by the M5 motorway. It is located on high ground and has expansive views over the surrounding countryside. Nonetheless, I concur with the appellant's findings that the appeal site is not visible from the property and is entirely screened by vegetation. I do not find that the proposal would be harmful to the special interest or setting of West Lodge or its separately listed barn [61, 62, 63, 71, 115].
153. Bowling Green Farmhouse and its separately listed barn (referred to collectively as Bowling Green Farm by the appellant) lie to the north east and are situated in a commanding position with views over the surrounding countryside. Whilst they are seen in the context of other man made development such as the overhead lines, radio transmitters and to some extent the M5 motorway, their setting is predominantly derived from their agricultural surrounds and the pastoral landscape that rises up to them across undulating countryside. The listing description states that the farmhouse was originally part of the Grafton Manor estate. The appeal site occupies a position on the lower slopes rising up to the property but within its overall setting [64, 65, 66, 67, 68, 71, 115].
154. The proposal would be partially visible from Bowling Green Farmhouse and barn and would be seen within their setting when viewed from the south. Whilst the appellant contends that the proposed planting will limit views over 5-7 years in my view this is a substantial period of time within the lifetime of the solar farm as set out above. Due to the elevation of the listed buildings in the landscape I do not find that the proposed planting would reduce the inter visibility between the proposal and Bowling Green Farmhouse and barn to a degree where the proposal would no longer be viewed within their setting. I consider that the proposal would be an alien and discordant feature within the pastoral setting of the listed buildings. Although this would result in less than substantial harm it would be noticeable and significant [64, 65, 66, 67, 68, 71, 115].
155. In such instances paragraph 134 of the Framework requires the harm to be weighed against the public benefits of the proposal. As confirmed in the appellants' cited case law, harm to a heritage asset should not be weighed with equal weight to other opposing issues but given special regard to the desirability of preserving the building or its setting. Whilst the appellant states that any harm to the setting of Bowling Green Farmhouse is at the lowest end of the spectrum of harm, this harm should be given special regard [29, 68, 69, 70, 71, 74, 115].
156. The public benefits of the proposal in providing renewable energy weigh considerably in its favour. Furthermore, the provision of an additional footpath, picnic area and additional planting are in the public interest. Notwithstanding these benefits, I have concluded that the proposal would be harmful as it is inappropriate development within the Green Belt and would be harmful to its

⁴⁶ Doc 8

openness and to the character, appearance and visual amenities of the area and network of public rights of way. This harm would not be in the public interest and in my assessment outweighs the public benefits arising from the scheme. As such I find that the public benefits of the scheme would not be sufficient to outweigh the harm that this particular scheme would cause to the setting of Bowling Green Farmhouse and barn [12, 25, 29, 33, 41, 48, 58, 71, 130, 134].

157. The above conclusions relate to the effect of the overall scheme on heritage assets. I note that Bromsgrove DC raised heritage concerns in relation to its particular application and no objection on this ground was made by Wychavon DC. In relation to Appeal B, in view of the position of this part of the site at an oblique angle to Bowling Green Farmhouse and barn and its relatively small size and distance from the property, in my assessment this part of the proposal as a stand-alone scheme would not cause the same harm that I have identified. Nonetheless, the Act requires special regard to be paid to the desirability of conserving listed buildings or their settings and in having that regard in my assessment I conclude that the overall scheme would be harmful to the setting of Bowling Green Farmhouse and barn and would not be in accord with policy SWDP 24 of the SWDP and national policy. This matter weighs significantly against the proposal [15, 18, 29, 55-72, 115].

Other Matters

Ecology

158. Concerns relating to the impact on ecology and wildlife are noted. A preliminary ecological appraisal was provided with the applications and no objections have been raised by Natural England, Worcestershire Wildlife Trust, Worcestershire County Council and Wychavon DC's heritage section on this ground subject to appropriate conditions. On the evidence before me I have no reason to believe that the proposal would give rise to any impacts on ecology and wildlife and would have some benefits through additional planting of hedgerows and a wildflower meadow. I give these benefits some limited weight [12, 30, 41, 54, 11, 120, 121, 123,].

Highways

159. The impacts of traffic using Rectory Lane are acknowledged. The appellant's transport statement⁴⁷ sets out the proposed access arrangements with the creation of a new temporary access route from the A38 during construction and Rectory Lane being used during the operation. It is stated that its use will be infrequent with a negligible impact on the highways network. No objections have been received from the County Highways Authority and I viewed both the proposed construction access and Rectory Lane on my site visit. I am satisfied that the proposed construction access would have sufficient forward visibility in both directions and would provide a suitable route for heavier construction vehicles. I am satisfied that the infrequent use of Rectory Lane would be acceptable. I also note that Highways England raises no objection with regard to the impacts to the M5. I am satisfied on the evidence before me that the proposal would not give rise to any significant highway safety concerns. This matter would be neutral in the planning balance [30, 120, 121, 125, 126].

⁴⁷ Doc 14

Land Classification

160. The land is predominantly classified as Grade 3b land under the Agricultural Land Classification criteria and would not represent the best and most versatile agricultural land as defined in the Framework⁴⁸ and I give this matter some limited weight [27, 28, 30, 41, 126].

Renewable Energy

161. The development would clearly make a significant contribution to providing energy from a renewable source. The proposal would produce 8.94MW of electricity under peak operating conditions which the appellant states would meet the needs of approximately 2,682 average homes and reduce CO₂ emissions by 4,470 tonnes annually for 25 years. Whilst the Framework does not require proposals to demonstrate the need for renewable energy the proposal would clearly contribute to national targets in this respect [14, 25, 33, 41, 43-47, 75, 100, 105, 11, 114].

162. National planning policies support renewable energy proposals where there are no unacceptable impacts. The contribution that this proposal makes to energy security and national renewable energy targets weighs significantly in its favour [14, 25, 33, 41, 43-47, 75, 100, 105, 111, 114].

Very Special Circumstances

163. The Framework states that inappropriate development in the Green Belt should not be approved except in very special circumstances. These will not exist, unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations [26, 80, 81, 103, 107, 109, 120, 125, 126].

164. The appellant has put forward a number of other considerations. Having regard to these matters I consider that significant weight should be given to the contribution that the scheme would make to the Government's targets on renewable energy and tackling climate change. The evidence provided by the appellant suggests that the proposal would meet 9.3% of the target 15% of electricity from renewable sources in the Wychavon area. Whilst Wychavon DC has queried whether the stated district's needs have been met by recently consented schemes, on the evidence before me the proposal would make a substantial contribution to local renewable energy needs and I afford this considerable weight [41, 43-47, 100, 111, 114].

165. It is noted that the proposal would not utilise the best and most versatile land and has been designed to enable continued grazing and agricultural use underneath the panels. This is in accordance with the requirements of the Framework and would enable the land to provide benefits from its continued agricultural use. I afford this some weight. The temporary nature of the proposal also means that any effects are removed after 25 years. However, as set out above, in my assessment 25 years is a significant length of time and comprises a substantial part of the average person's lifetime and I give this limited weight [30, 33, 41, 101, 116].

⁴⁸ Annex 2: Glossary, National Planning Policy Framework

166. The assessment of alternative sites indicates that there are few potential sites within the area for ground mounted solar farms or for roof mounted arrays. The search area for the alternative site assessment has been restricted to a 2km radius from the Upton Warren substation as this has capacity for connection. Nonetheless, I find this to be a very restricted search area and which has been effectively halved by the restrictions that the M5 places on connections from the west side of the motorway. I acknowledge the constraints that distance from the substation places on the financial viability of the proposal and the difficulties of finding suitable grid connection capacity. However, I have little substantive evidence before me that there are no other substations within a reasonable distance of the Wychavon area with connection capacity [33, 35-37, 41, 99, 113].
167. Furthermore, and recognising the extent of the Green Belt designation, the assessment gives no consideration to other sites outside the Green Belt that may be suitable for solar farms that could make the same or similar contribution to national and local renewable energy needs. Whilst I am sympathetic to the grid connection difficulties acknowledged in various reports and studies, on the evidence before me I am not persuaded that there is no other available capacity or alternative sites within the Wychavon area. I therefore afford this consideration little weight [33, 35-37, 41, 99, 113].
168. I give some weight to the potential benefits to the ecology of the site through the creation of a wildflower meadow, more species rich grassland buffer zones and additional hedgerow planting. I also give some weight to the potential benefits to the farm arising from the economic and employment security that it would bring. Diversification of agricultural businesses is supported by national planning policy⁴⁹ and is an objective of the SWDP [12, 30, 33, 41, 54, 101, 111].
169. There would also be some benefits to the local community through the creation of a new footpath along the southern boundary and the new picnic area and interpretation. The appellant has also stated that a Unilateral Undertaking would be given which would provide a “fit for free” scheme for the installation of solar domestic equipment to properties within a defined zone from the appeal site. The full Unilateral Undertaking has not been provided with the appeal documents. Nonetheless I do not consider that such a scheme would be reasonably related to the development proposed. On this basis any such undertaking would not meet national policy guidance as set out in the Framework and Guidance [12, 30, 41, 125].
170. Weighed against the benefits is the harm to the Green Belt by definition of it being inappropriate development and through the harm that it would cause to the openness of the Green Belt and in not meeting its purpose of safeguarding the countryside from encroachment. Whilst I note the Rambler’s Association views, in my assessment, the proposal would be harmful to the character and appearance of the area through its impact on the landscape character and visual amenities of the area. I consider that this would be of substantial significance [34, 127, 129, 130, 132, 133, 134, 149].
171. In addition, I have found that the proposal under Appeal A would cause less than substantial harm to the setting of Bowling Green Farmhouse and barn. This

⁴⁹ Paragraph 28, National Planning Policy Framework

harm is not outweighed by the public benefits arising from the proposal and would therefore not accord with national policy. This weighs substantially against the proposal [157].

172. In weighing the combined harm to the Green Belt with the other harm that I have identified I find that the other considerations in this case do not clearly outweigh the harm that I have identified. I have no evidence before me that the impacts could be made acceptable. As such the very special circumstances necessary to justify the development do not exist.
173. As such the proposal would not be in accord with policies SWDP 2, SWDP 24, SWDP 25 and SWDP 27 of the SWDP, DS2 and DS13 of the Bromsgrove LP and would be in conflict with the objectives of the Framework and Guidance. The proposal would not be the sustainable development that the Framework provides a presumption in favour.
174. Wychavon DC and the appellant have cited numerous references to other applications and appeal decisions relating to solar farms. The balancing exercise required to be carried out in assessing proposals for renewable energy within the Green Belt is dependent on the critical aspects of each individual proposal and its particular context and circumstances. Whilst I acknowledge these decisions and note that some reach different conclusions on similar matters, the conclusions are based on a fine balancing exercise of benefits against any harm. I have considered the appeals proposal on its own merits and with regard to its particular context and circumstances and the cited decisions do not affect my assessment and recommendations on the planning balance of this particular proposal [38, 39, 40, 41, 80, 94, 97, 98,].

Conditions

175. Wychavon DC's statement of case includes a list of suggested conditions at its Appendix 1⁵⁰. The appellant has responded that there is some concern with the requirement of conditions 3 and 11 (as numbered by Wychavon DC) that no development takes place until a soft landscaping scheme and details of the arrangements for the storage on site of obsolete or malfunctioning panels or equipment have been submitted to and approved in writing by the local planning authority. It is suggested that this be altered to require details to be agreed within 3 months of commencement of development or 3 months of commissioning of the solar farm in respect of condition 11. It is also suggested that condition 7 be altered as it appears draconian to require the solar panel array not to be energised until the local planning authority has acknowledged in writing the completion of the installation works as the works will be carried out in accordance with any permission.
176. Bromsgrove DC has provided a list of suggested conditions with its appeal questionnaire⁵¹ and no response has been provided by the appellant in this regard.
177. I have considered the need for conditions, their wording and order in the light of the advice in the Guidance and attached at Annex A is a list of conditions that I

⁵⁰ Doc 6

⁵¹ Doc 15

consider should be attached to any permission granted in respect of Appeal A. In relation to Appeal B it is noted that Bromsgrove DC suggested only 3 conditions. However, I consider that the same conditions are also relevant to the part of the site falling into Bromsgrove's jurisdiction. As such with the exception of condition 15 which wholly relates to development within the Wychavon part of the site the list of conditions is also recommended to be attached to any permission in respect of Appeal B.

178. Condition 1 relates to the standard time period for implementation. Condition 2 requires the development to be carried out in accordance with the submitted plans. To ensure any archaeological findings are protected and recorded condition 3 requires a programme of archaeological work to be approved. Conditions 4 and 5 are necessary to ensure that the site is appropriately landscaped and existing trees are protected from damage during construction. Although I acknowledge the appellant's concerns regarding the need to provide landscaping details prior to the commencement of works I consider it necessary that these are agreed at an early stage to ensure that landscaping features are retained and protected throughout the construction phase.
179. Conditions 6, 7, 8 and 9 are required to protect ecological interests. To ensure the visual impacts are minimised from obsolete equipment condition 10 is necessary and has been amended to enable the development to commence prior to the arrangements being agreed. Conditions 11 and 12 are necessary in the interests of residents' living conditions and highway safety. Condition 13 is required to protect the visual appearance of the area, but I have amended the wording to reflect the appellant's comments as any works is required to be carried out in accordance with the permission given and any conditional requirements. Condition 14 is required to ensure the development is decommissioned after 25 years and the land restored to an appropriate condition. I have included a clause that the development should be removed within 6 months of the cessation of the use of the site for the production of electricity to ensure that it does not remain vacant should the use cease before the end of 25 years. Condition 15 requires the temporary access to be removed following construction.
180. The appellant has suggested that some of the northern and western panels could be excluded from the development by condition and an alternative layout has been provided in this respect⁵². This would represent a significant change in the nature of the scheme and in my assessment would represent a substantially different proposal. In line with the Guidance⁵³ a condition that modifies the development is such a way as to make it substantially different from that set out should not be used.
181. Notwithstanding this, in my assessment the proposed amendment would not overcome my conclusions in relation to the harm by definition, of inappropriate development in the Green Belt, and the effect on the openness of the Green Belt and its purpose in safeguarding the countryside from encroachment. The harmful impacts to landscape character, visual amenity and the setting of the listed buildings whilst would be lessened to a small degree, would not be reduced

⁵² Docs 7 & 8 Appendix A5.2

⁵³ Planning Practice Guidance: Use of Planning Conditions

to a level that in my assessment would render the development acceptable. In addition, the weight to be afforded to renewable energy provision would be somewhat lessened through the smaller contribution that would be made to renewable energy targets. As such I do not find that such a condition would overcome the harm that I have identified.

Conclusions

182. Decisions on the appeals are required to be made in accordance with the development plan unless material considerations indicate otherwise. In this case Bromsgrove DC has no specific policies in relation to renewable energy development and Wychavon DC provides general support for renewable energy schemes whilst having regard to other relevant policies in the plan. Both council's general policies in relation to the Green Belt are in accordance with the objectives of the Framework [16-29].
183. The proposal would be inappropriate development in the Green Belt. Both the overall development and the portion within Appeal B would cause harm to the openness of the Green Belt and its purpose in assisting in safeguarding the countryside from encroachment.
184. In my assessment the proposed development within both appeals would cause harm to the landscape character and visual amenities of the area.
185. The proposal in Appeal A would result in less than substantial harm to the setting of the listed Bowling Green Farmhouse and barn and this harm would not be outweighed by the public benefits of the proposal.
186. For the reasons set out above the other considerations put forward by the appellant do not clearly outweigh the harm to the Green Belt. This harm arises by definition as it comprises inappropriate development in the Green Belt and through the other harm to the Green Belt that I have identified. As such, the very special circumstances required to justify the development do not exist.
187. The proposal would conflict with policies SWDP 2, SWDP 24, SWDP 25 and SWDP 27 of the SWDP, S2 and DS13 of the Bromsgrove LP and would be in conflict with the objectives of the Framework and Guidance.
188. For the reasons given above and having regard to all other matters raised, I conclude that both appeals should be dismissed.

Recommendation

153. I recommend that both appeals be dismissed. However, if the Secretary of State is minded to allow either or both of the appeals, Annex A lists the conditions that I consider should be attached to any permission(s) granted.

Vicki Hirst

INSPECTOR

Annex A – Recommended Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

SF0708-06

SF0708-04 rev A

SF0708-01 rev F

LE12542-003

PV Panel Array

Typical 33KV switchroom and meter room WPD

Inverter building GSS100A_002

Fence GSS100A_003

CCTV GSS100A_001

Double swing gate GSS100A_004

Typical trench detail

3. Prior to the commencement of development hereby permitted a programme of archaeological work, including a written scheme of investigation shall be submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
 - a) the programme and methodology of site investigation and recording;
 - b) the programme for post investigation assessment;
 - c) provision to be made for analysis of site investigation and recording;
 - d) provision to be made for publication and dissemination of the analysis and records of site investigation;
 - e) provision to be made for archive deposition of the analysis and records of the site investigation;
 - f) nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.

The development shall not be first brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the written scheme of investigation approved under this condition and provision made for analysis, publication and dissemination of results and archive deposition has been secured.

4. Prior to the commencement of development hereby permitted full details of the soft landscaping works shall be submitted to and approved in writing by the local planning authority. The submitted details should include:
- a) a plan(s) showing details of all existing trees and hedges on the site. The plan should include, for each tree/hedge the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread;
 - b) a plan(s) showing the layout of the tree, hedge and shrub planting and grass areas;
 - c) a schedule of proposed planting indicating species, sizes at time of planting and numbers/densities of plants;
 - d) a written specification outlining cultivation and other operations associated with plant and grass establishment;
 - e) a schedule of maintenance, including watering and the control of competitive weed growth for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following completion or first occupation/use of the development, whichever is the sooner. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing with the local planning authority.

5. All existing trees and hedges on site, or branches from trees on adjacent land that overhang the site, unless indicated on the approved plan(s) to be removed, shall be retained and shall not be felled or pruned or otherwise removed within a period of five years from the completion of the development without the previous written consent of the local planning authority.

Temporary fencing for the protection of all retained trees/hedges on site during development shall be erected, to a minimum height of 1.2 metres below the outermost limit of the branch spread, or at a distance equal to half the height of the tree, whichever is the furthest from the tree. Such fencing shall be erected in accordance with BS 5837: 2005 before any materials or machinery are brought onto site and before any demolition or development including erection of site huts is commenced. This protective fencing shall be maintained on site until the completion of development, and nothing shall be stored or placed, nor any ground levels be altered, within the fenced area without the previous written consent of the local planning authority. There shall be no burning or any material within 10 metres of the extent of any canopy of any retained tree/hedge.

If any retained tree/hedge is removed, uprooted or destroyed or dies, replacement planting shall be carried out in the first available planting season

of such species, sizes and numbers and in position on site as may be specified by the local planning authority.

6. Prior to the commencement of the development hereby permitted, detailed specifications of the surface design of the solar panels and layout shall be submitted to and approved in writing by the local planning authority. The panels shall be broken up and designed in such a way to avoid impacts on wetland birds and invertebrates. The panels shall thereafter be installed and retained in accordance with the approved specifications.
7. Prior to the commencement of the development hereby permitted (including ground works and vegetation clearance) a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
 - a) a risk assessment of potentially damaging construction activities;
 - b) identification of biodiversity protection zones;
 - c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
 - d) the location and timing of sensitive works to avoid harm to biodiversity features;
 - e) the times during construction when specialist ecologists need to be present on site to oversee works;
 - f) responsible persons and lines of communication;
 - g) the role and responsibilities on site of an ecological clerk of works or similarly competent person;
 - h) use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

8. Prior to the commencement of the development hereby permitted a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include:
 - a) description and evaluation of features to be managed;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management;
 - d) appropriate management options for achieving aims and objectives;
 - e) prescriptions of management actions;

- f) preparation of a work schedule (including an annual plan capable of being rolled forward for the lifetime of the development);
- g) details of the body or organisation responsible for implementation of the plan;
- h) ongoing monitoring and remedial measures.

The LEMP shall include details of the funding and legal mechanisms by which the long term implementation of the plan will be secured by the developer with the management body responsible for its delivery. The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved LEMP shall be adhered to and implemented in accordance with the approved details.

- 9. Within one month of the commencement of construction works on the development hereby permitted, details of a bat roosting feature and bird nesting boxes shall be submitted to and approved in writing by the local planning authority. The approved features shall be provided and retained in accordance with the approved details prior to the first use of the development hereby permitted.
- 10. Within three months of electricity being first exported to the grid, details of the arrangements for the storage on site of any obsolete or malfunctioning panels or equipment shall be submitted to the local planning authority for approval in writing. The development shall be carried out and the site operated in accordance with the approved details.
- 11. Demolition, clearance or construction work and deliveries to the site in connection with the development hereby approved shall only take place between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on a Saturday. There shall be no demolition, clearance or construction work or deliveries to and from the site on Sundays or Bank Holidays.
- 12. Access and deliveries in association with the development hereby permitted shall be implemented only in accordance with the submitted Transport Statement dated April 2015.
- 13. The local planning authority shall be given written notification within 21 days of such time that electricity from the development is first exported to the national grid.
- 14. The solar farm shall be dismantled and all materials removed from site including the fencing, access track and sub-station and any associated infrastructure/development within a period of 4 months from the date of the cessation of exporting electricity from the site to the national grid or on or before 25 years of the date of this decision whichever is the sooner.

15. Within 6 months of the completion of the installation the use of the land for a temporary access and temporary construction compound shall be discontinued and the land restored as far as is practicable to its former condition.

NB With the exception of condition 15 which should be excluded from Appeal B all recommended conditions apply to both appeals

ANNEX B – LIST OF DOCUMENTS REFERENCED IN REPORT

| Reference | Description |
|------------------|--|
| Doc 1 | Wychavon DC's EIA Screening Opinion |
| Doc 2 | Appellant's Landscape and Visual Impact Assessment, Sep 2014 |
| Doc 3 | Landscape Masterplan |
| Doc 4 | Wychavon DC's Decision Notice |
| Doc 5 | Bromsgrove DC's Decision Notice |
| Doc 6 | Wychavon DC's Statement of Case |
| Doc 7 | Appellant's Appeal Statement – Appeal A, Oct 2015 |
| Doc 8 | Appellant's Appeal Statement – Appeal B, Oct 2015 |
| Doc 9 | Appellant's Final Comments, Dec 2015 |
| Doc 10 | Appellant's Assessment of Alternative Sites |
| Doc 11 | Appellant's Very Special Circumstances Report, Aug 2015 |
| Doc 12 | Appellant's Planning Statement |
| Doc 13 | Appellant's Archaeology and Cultural Heritage Assessment, Sep 2014 |
| Doc 14 | Appellant's Transport Assessment, April 2015 |
| Doc 15 | Bromsgrove DC's List of Suggested Conditions |
| Doc 16 | Wychavon DC's comments on the relevant policies of the South Worcestershire Development Plan, email 25 February 2016 |
| Doc 17 | Appellant's Response to the implications of the South Worcestershire Development Plan, 4 March 2016 |



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.