

## **STATEMENT OF CASE**

### **SECTION 78 APPEAL: HILFIELD SOLAR FARM, LAND NORTH OF BUTTERFLY LANE, LAND SURROUNDING HILFIELD FARM AND LAND WEST OF HILFIELD LANE, ALDENHAM**

#### **ON BEHALF OF THE APPELLANT, ELSTREE GREEN LIMITED**

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)  
PLANNING AND COMPULSORY PURCHASE ACT 2004**

#### **PROPOSAL:**

**INSTALLATION OF RENEWABLE LED ENERGY GENERATING STATION  
COMPRISING GROUND-MOUNTED PHOTOVOLTAIC SOLAR ARRAYS AND  
BATTERY-BASED ELECTRICITY STORAGE CONTAINERS TOGETHER WITH  
SUBSTATION, INVERTER/TRANSFORMER STATIONS, SITE ACCESSES,  
INTERNAL ACCESS TRACKS, SECURITY MEASURES, ACCESS GATES, OTHER  
ANCILLARY INFRASTRUCTURE, LANDSCAPING AND BIODIVERSITY  
ENHANCEMENTS**

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## 1. INTRODUCTION

1.1 The Statement of Case has been prepared on behalf of Elstree Green Ltd ('The Appellant') and relates to a planning appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990, concerning Land North of Butterfly Lane, Land Surrounding Hilfield Farm And Land West Of Hilfield Lane, Aldenham, Hertfordshire ('The Appeal Site').

1.2 The appeal follows the decision of Hertsmere Borough Council ('The LPA') to refuse an application for full planning permission (LPA ref: 21/0050/FULEI) for a Proposed Development comprising the following:

**"Installation of renewable led energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter / transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure, landscaping and biodiversity enhancements"**

1.3 The refusal of the application was confirmed in the decision notice dated 19<sup>th</sup> November 2021.

1.4 The LPA's Planning Committee refused the planning application at a meeting held on 14<sup>th</sup> October 2021 against the advice of the recommendation of the Officer's report to Committee which was the planning permission should be granted, subject to completion of a S106 Agreement and the imposition of 24 no. planning conditions.

1.5 The decision notice sets out the two reasons for refusal, which state:

**"Reason 1: Inappropriate development in the Green Belt**

**The proposal would be an inappropriate development that would be harmful to the openness of the Green Belt in which it would be located. The Council considers that the benefits that the scheme would bring are not such as would amount to very special circumstances sufficient to outweigh the harm to the Green Belt, even when the wider environmental benefits associated with the increased production of energy from renewable sources have been taken into consideration (pursuant to paragraph 151 of the National Planning Policy Framework 2021). As such, the proposal would be contrary to paragraphs 147 and 148 of the National Planning Policy Framework and contrary to Policy SADM26 (Development Standards in the Green Belt) of the Hertsmere Local Plan (Site Allocations and Development Management Policies Plan) 2016.**

## **Reason 2: Harm to the significance of designated heritage assets**

**The proposal would cause less than substantial harm to the significance of the following neighbouring designated heritage assets by reason of its impact on their settings: Slades Farmhouse (listed building, Grade II, entry 1103614), Hilfield Castle (listed building, Grade II star, entry 1103569), Hilfield Castle Lodge (listed building, Grade II, entry 1103570), Aldenham House Registered Park and Garden (Grade II, entry 1000902) and Penne's Place (Scheduled Monument entry 1013001). The public benefits of the development would not be sufficient to outweigh the less than substantial harm that would be caused to the significance of those designated heritage assets, and therefore the proposal is considered unacceptable, pursuant to Policy CS14 (Protection or Enhancement of Heritage Assets) of the Hertsmere Local Plan (Core Strategy) 2013 and pursuant to paragraph 202 of the National Planning Policy Framework 2021."**

### **Appeal Procedure**

- 1.6 The Appellant considers that a **Public Inquiry** would be the most appropriate procedure for this case.
- 1.7 The Appellant requests this procedure for the following reasons:
- i. This is a significant scheme, of strategic importance in planning and energy terms. The parties are some way apart on issues of impact of openness of the Green Belt and the demonstration of very special circumstances, heritage and planning policy assessment. These matters should be properly tested and scrutinised through formal examination and cross examination of Expert Witnesses by an Advocate, which would not be permissible under the Hearing procedure.
  - ii. It is necessary for other material considerations, including those relating to the need for the development, to be properly examined, tested and understood through the examination of oral evidence.
  - iii. It is not expected that all parties could adequately present their case within 2 days (which exceeds normal practice for a Hearing).
  - iv. The level of public interest in the planning application is a further reason for requesting a public inquiry.

- 1.8 The Appellant considers that up to **5 days** would be required, depending upon the extent of third party involvement in the appeal proceedings.

## 2. THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The Appeal Site is semi-urban in character with some localised intrusion of man-made features.
- 2.2 It comprises three parcels of agricultural land which are linked by a connecting "corridor". In total, the Appeal Site extends to approximately 130 hectares, of which 2 hectares comprises the connecting corridor for an underground cable.
- 2.3 Over much of the site the topography is generally gently undulating ranging between 100 – 80-m AOD. The western parcel rises to its highest elevation in the western area of the parcel (Field 5) at approximately 100m AOD, with the land sloping down from Elstree Aerodrome towards Hilfield Lane, then rising again beyond that lane towards the A41 and the M1 motorway.
- 2.4 The western parcel is in close proximity to a number of features of transport and energy infrastructure, and some of those (the pylons and overhead power cables) are present on the Appeal Site itself. The M1 motorway, the A41 road, and the Elstree Aerodrome are features of transport infrastructure that are located adjacent to the western parcel, and the National Grid Elstree 400kV Substation (adjacent to Hilfield Farm) is located within 100m to the north west of the western parcel (Fields 2 and 4). Overhead power cables and pylons from that National Grid sub-station cross the site.
- 2.5 Hilfield Brook flows partly along the boundary of, and through, Field 1, in a north-westerly direction and a series of drains route into Fields 2, 3 and 5. A series of drains also flow through the eastern parcel, from a watercourse which routes through the parcel in a north-easterly direction, which forms part of the Tykes Water and Borehamwood Brook, approximately 700m northeast of the eastern parcel. There are approximately 6 ponds within the Site and a further 2 immediately adjacent to the Appeal Site boundary.
- 2.6 Public Rights of Way either present on the Appeal Site or in the vicinity consist of:
- restricted byways Bushey 36 and 38 which route through Fields 1 and 5 on a general east-west alignment, from the A41 to the Elstree Aerodrome site, continuing as public bridleways Bushey 53 and Aldenham 78;

- restricted byway Bushey 46 which routes from public bridleway Bushey 53 in a northerly direction and continues north as Footpath Aldenham 14, both of which form the eastern boundary of Field 5;
- footpath Aldenham 30 routes from Footpath Aldenham 14 on a northeast-southwest alignment, forming the eastern boundaries of Fields 3 and 4. Footpath Aldenham 30 joins restricted byway Bushey 38 in the southwestern area of Field 5;
- Footpath Aldenham 40 routes through Fields 6, 7, 8, 9, 13, 15 and 14 (eastern parcel) between Watling Street and Aldenham Road on a general east-west alignment;
- Footpath Aldenham 42 routes on from Footpath Aldenham 40 on a northwest-southeast direction toward Butterfly Lane through fields 7, 20, 18 and 19;
- Footpath Aldenham 44 routes toward Butterfly Lane on a northeast-southwest alignment through Fields 14, 15 and 16;
- Footpath Aldenham 43 routes through Field 20, parallel to the south of Footpath Aldenham 40, from Aldenham Road to the west, joining Footpath Aldenham 42 to the east;
- Footpath Aldenham 32 routes along the eastern boundaries of Fields 9 and 11 and continues along the northern boundaries of Fields 11 and 10;
- Footpath Aldenham 31 routes along part of the northern boundary of Field 12 in the northernmost extent of the Appeal site, and routes in a general northeast-southwest direction between Watling Street to the east and Footpath Aldenham 17 to the north.

2.7 There are 41 listed buildings located within 1km of the site, concerns have only been raised by the LPA in respect of the following heritage assets which were listed in the reasons for refusal:

- Slades Farmhouse (Grade II, list entry no: 1103614). This is an 18th century former farmhouse. It is in residential use by tenants of the Aldenham Estate.

- Hilfield Castle (Grade II\*, list entry no: 1103569). A gothic-style country house from 1799. It is in residential use.
- Hilfield Castle Lodge (Grade II, list entry no: 1103570).
- Aldenham House Registered Park and Garden (Grade II, list entry no: 1000902). These comprise the grounds of Haberdashers' School.
- Penne's Place Moated Site (Scheduled Monument, list entry no: 1013001). These are the remains of a moat which once encircled a medieval manor house (which no longer exists); they are in the grounds of Haberdashers' School.



### 3. THE APPEAL PROPOSALS

3.1 The application which is the subject of this Appeal seeks Full Planning Permission for the following:

**“Installation of renewable led energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter / transformer stations, site accesses, internal access tracks, security measures, access gates, other ancillary infrastructure, landscaping and biodiversity enhancements.”**

3.2 The planning application was given the reference **21/0050/FULE1** by the LPA.

3.3 During the course of the determination of the planning application by the LPA, one amendment was made to the Proposed Development on 9<sup>th</sup> March 2021. This amendment reduced an area of Field 16 (immediately to the North-East of the Slades Farm buildings) by 11,741m<sup>2</sup> that was originally proposed for solar PV panels. This change was made in response to representations that had been made in respect of the proximity of these proposed solar PV to Aldenham Park. The revision has pulled the solar panels back away from Butterfly Lane and Aldenham Park.

#### Proposed Development

3.4 The application seeks Planning Permission for the construction of a solar farm and battery stations with a capacity of not more than 49.9MW for a temporary period of 35 years from the date of the first exportation of electricity from the site. The decommissioning of the site and its restoration will be addressed by the imposition of conditions.

3.1 The Proposed Development was a result of an iterative design process which is summarised in the Design and Access Statement which was submitted as part of the application.

#### Solar Arrays and Supporting Equipment

3.2 The Proposed Development consists of bifacial solar photovoltaic (PV) panels. At their lower edge panels would be approximately 0.8m from the ground and up to approximately 3m at their higher edge depending on the position of the static array within the topography of the site. The panels would be ground mounted onto a fixed tilt system mounted on a structure made of galvanized steel or

aluminium. The metal framework that supports the solar panels would be fixed into the ground by posts centred c. 6m apart. The posts would be pile-driven (like a fence post) into the turf to a depth of around 2-2.5m. This approach means no concrete is needed to secure the system and the posts can be easily removed with no permanent impact at the end of the solar farm's temporary consent. The solar PV panels would be orientated broadly facing south between 165-200 degrees at a fixed tilt of between 15-30 degrees. The solar panels would be laid out in rows with gaps of approximately 3-4.5m between each row depending on the topography of each field.

3.3 Plant and other equipment to support the generation of electricity is proposed around the Appeal Site, including sixteen inverter/transformer stations.

3.4 Compacted crushed stone internal tracks are proposed across the Appeal Site.

#### Battery Storage Facility

3.5 The Battery Storage units would be housed within approximately 20 shipping containers or similar, within a defined battery storage area in the western site, comprising hardcore surface. Each container will be finished in green and not stacked.

#### Substation

3.6 There would be one substation and auxiliary switchgear area on site, sited on a hard core or concrete slab.

3.7 The on-site substation would combine electricity from the transformers and batteries distributed across the site before transferring it to the Elstree National Grid Substation immediately to the north of the western parcel via underground electrical cables.

#### Cabling

3.8 Underground cabling will be required to connect the generating substation to the Point of Connection at Elstree National Grid Substation. The boundary of the western parcel is shared with land within National Grid ownership. The Applicant has signed a Bilateral Connection Agreement with National Grid allowing for export and import of the full capacity of the project.

3.9 The cables linking all the PV arrays to the inverter/ transformer stations including the connection between the two field parcels north of the aerodrome will be via

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underground or cable trays above ground and underground from the inverter/transformer stations to the on-site substation.

#### Perimeter Fencing and CCTV

- 3.10 It is proposed that deer fencing c.2.2m in height would be installed around the perimeter of the Appeal Site, comprising wooden fence poles and galvanised fences with gates. The fencing would enclose the solar panels within each field and allow sheep to graze securely. The fence will be erected with a minimum 5m stand-off either side of all Public Rights of Way (PRoW) to maintain public accessibility by excluding it from the operational site. Gates will be installed to allow for movement between each area of the development and for operators to access their equipment.
- 3.11 In addition to fencing, it is proposed that the perimeter of the Appeal Site would be protected by a system of CCTV and/or infra-red cameras, which would provide full 24-hour surveillance around the internal perimeter. An intelligent sensor management system would manage the cameras. Cameras would be inward facing on poles of up to approximately 2.4m high, spaced at approximately 50-70m intervals along the fence.

#### Lighting

- 3.12 There would be no permanent security lighting within the Appeal Site at night-time and no permanent operational lighting is proposed within the Site.

#### Access

- 3.13 The Proposed Development will include internal access roads (3.5-6.0m wide) throughout the Site allowing for the movement of construction and maintenance vehicles.
- 3.14 There will be two points of Operational Access via Hilfield Lane (through Hilfield Farm) to the west and Butterfly Lane (through Slades Farm) to the east. Safe road access has been designed in accordance with advice received from the Highway Authority.
- 3.15 A number of PRoW run through and around the Appeal Site (as listed at paragraph 2.6), the PRoWs have been retained with enhancements proposed. Additionally, 578m of new permissive paths have been included allowing a new

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connection to the Hertfordshire Way and an alternative route around Belstone Football Club's pitches.

#### Landscaping

- 3.16 The existing vegetation on the Appeal Site will be carefully managed as part of the comprehensive landscape strategy set out in the Landscape and Ecological Management Plan (LEMP) and Green Belt Legacy Statement.
- 3.17 New planting of native species woodland, tree belts, hedgerows, wildflower meadow, neutral grassland with wildflowers and scrub, and tussocky grassland is proposed across the Appeal Site. The landscaping, planting and biodiversity enhancements form part of the Estate's wider biodiversity programme.
- 3.18 The significant enhancement of the biodiversity of the Appeal Site is demonstrated through the biodiversity net gain calculation (metric 3.0) which confirms that the biodiversity would be significantly improved with a 89.99% habitat biodiversity net gain and a 24.98% hedgerow biodiversity net gain through the implementation of the Proposed Development.
- 3.19 The screening effect of planting associated with the Proposed Development, along with the relaxation of management of existing field boundaries to allow them to grow out, would reduce visual effects over time and essentially limit them to within the Appeal Site and the immediate vicinity.
- 3.20 It is proposed that there will be some sheep grazing amongst the solar arrays, maintaining an agricultural use of the Appeal Site in combination with the delivery of significant biodiversity enhancements.

#### Construction and Operation

- 3.21 Construction is expected to take place over approximately 40 weeks.
- 3.22 Once installed, the solar farm would require infrequent visits for the purposes of maintenance or cleaning of the Appeal Site. Such work typically requires 10-20 visits per year. The Proposed Development would be unmanned, being remotely operated and monitored.

#### Decommissioning

3.23 At the end of the 35-year operational lifespan of the Proposed Development, the Appeal Site would be restored back to full agricultural use with all equipment and below ground connections removed. However, the landscape enhancement measures would remain, providing long-term benefits to the local landscape character and biodiversity of the area. It is envisaged that the decommissioning of the solar farm would take approximately six months.

#### 4. PLANNING HISTORY

- 4.1 A Screening Opinion was obtained in September 2020 from the LPA (ref: **20/1183/EI1**). The Screening Opinion confirmed that the proposal falls within category 3a of Schedule 2 as described in the Regulations. The Screening Opinion considered that, given the nature of the proposed development, and *'given that it might pose a risk of major accidents or disasters, as per Schedule 3 part 1f'* an ES would be required.
- 4.2 The Scoping Opinion also received in September 2020 confirmed that the only topic that would be required to be addressed within the ES was in relation to Aviation Safety impacts.

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## 5. APPLICATION PLANS AND DOCUMENTS

- 5.1 The application plans and supporting documents that comprised the planning application at the time that it was determined (and as listed on the Decision Notice) are set out in full in the accompanying Draft Statement of Common Ground.
- 5.2 Copies of these documents have been provided to the Inspectorate with the Appeal.
- 5.3 In addition an updated Biodiversity Metric 3.0 Report has been prepared which is also submitted as part of the appeal documentation.

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## 6. CLIMATE CHANGE AND CARBON REDUCTION

6.1 The Appellant will refer to the relevant climate change legislation and policy in evidence of part of its case.

6.2 This will include:

- i. Climate Change Act 2008
- ii. Climate Change Act (2050 target amendment) Order 2019
- iii. Clean Growth Strategy published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017
- iv. UK Parliament's declaration of an Environmental and Climate Change Emergency in May 2019.
- v. Reference to Hertsmere Borough Council's declaration of a climate emergency in September 2019.
- vi. Energy White Paper: Powering our Net Zero Future published in December 2020.
- vii. UK Government's press release of acceleration of carbon reduction to 2035, dated April 2021.
- viii. 'Net Zero Strategy: Build Back Greener' published by the UK Government in October 2021.

6.3 If relevant any further announcements by the Government between the submission of the Appeal and the opening of the Public Inquiry will be referred to.

6.4 Reference will also be made to progress made to meeting these carbon reduction targets, including:

- i. The latest version of the 'Digest of United Kingdom Energy Statistics', currently the July 2021 version;
- ii. 'Achieving Net Zero' published by the National Audit Office in December 2020; and
- iii. Performance of Hertsmere Borough Council in becoming net-zero by 2050.



## 7. PLANNING POLICY

7.1 The planning policies and guidance that will be of most relevance to this appeal will be set out in the Statement of Common Ground (SoCG). It is anticipated that the main planning policy issues will be agreed with the LPA prior to the opening of the Public Inquiry.

### The Development Plan

7.2 The Appellant will explain that the Development Plan which should apply to the Appeal Site comprises the:

- **Local Plan Core Strategy Development Plan Document 2013**
- **Site Allocation and Development Management Plan 2016**
- **Local Plan 2012-2027 Policies Map (November 2016)**

7.3 HBC is currently in the process of preparing a new Local Plan. A Draft Regulation 18 Local Plan was subject to consultation in September 2021. Although the LPA's consultation timeline indicates that the new Local Plan will be submitted for Examination in mid-2022, at the Full Council meeting on 26<sup>th</sup> January 2022, the Council resolved to 'shelve' the preparation of this new Local Plan.

7.4 No Neighbourhood Plans have been made by HBC and would directly apply to the Appeal Site, although it is noted that the **Radlett Neighbourhood Plan** which covers the town of Radlett and its hinterland lies approximately 400m to the north of the Appeal Site at its closest boundary.

### National Guidance

7.5 The Appellant will refer to relevant national guidance set out in the revised National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

7.6 The Appellant will also refer to the following national guidance

- Overarching National Policy Statement for Energy (EN-1) (July 2011).
- Draft Overarching National Policy Statement for Energy (EN-1) published in September 2021.

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- National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011).
  - Draft National Policy Statement for Renewable Energy Infrastructure (EN-3) published in September 2021.
  - UK Government Solar Strategy 2014.
  - Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25 March 2015.
  - Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021).

### **Supplementary Planning Guidance**

7.7 The Appellant will also refer to the following supplementary planning guidance, documents and advice:

- Hertfordshire Landscape Character Assessment: Hertsmere (2000)
- Biodiversity Trees and Landscape SPD (2010)
- GreenArc Strategic Green infrastructure Plan (2011)
- Hertsmere Borough Green infrastructure Plan (2011)
- Hertsmere Climate Change and Sustainability Action plan (October 2020)
- Hertsmere Climate Change and Sustainability Interim Policy Position Statement (adopted 2020)

## 8. EVIDENCE

- 8.1 On the basis that the Planning Inspectorate agrees to the appeal being dealt with under the Public Inquiry procedure, the Appellant will prepare written proofs evidence in advance of the Inquiry to address the Reason for Refusal.
- 8.2 The evidence will also consider any other valid issued raised by Third Party objectors or by statutory consultees.
- 8.3 At this stage it is anticipated, based on the reasons for refusal, that evidence will be presented as follows:

### Openness of the Green Belt & Landscape Effects

- Andrew Cook BA (Hons) MLD CMLI MIEMA CENV

### Heritage

- Gail Stoten BA (Hons) MCIfA FSA

### Planning Policy and the Planning Balance

- Paul Burrell BSc Hons Dip Up MRTPI

- 8.4 In addition, the Appellant intends to submit a written statement on ecological matters and Biodiversity Net Gain.
- 8.5 The Appellant reserves the right to introduce additional witnesses as necessary to address any other issues that may be raised by the LPA and/or any Third Parties.

## 9. CASE FOR THE APPELLANT

9.1 The Appellant will present evidence to demonstrate that the LPA's Reasons for Refusal cannot be sustained, that the scheme accords with the statutory Development Plan, and is further supported by other material considerations.

9.2 Article 35(1)(b) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that where planning permission is refused, the notice must state clearly and precisely the LPA's full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision.

### Reasons for Refusal

9.3 The Appellant considers that LPA's Reasons for Refusal raise two main considerations:

- i. The alleged harm to the openness of the Green Belt caused by the Proposed Development; and the extent to which very special circumstances are demonstrated sufficient to outweigh that harm to the Green Belt.
- ii. The alleged unacceptable adverse impact of the Proposed Development on the setting of specified heritage assets, namely Slades Farmhouse, Hilfield Castle, Hilfield Castle Lodge, Aldenham House Registered Park and Garden, and Penne's Place.

9.4 The LPA therefore asserts that the Proposed Development conflicts with Policy CS14 of the Hertsmere Local plan (Core Strategy) 2013 and Policy SADM26 of the Hertsmere Local Plan (Site Allocations and Development Management Policies Plan) 2016; and also paragraphs 147, 148 and 202 of the Framework.

### Main Issues

9.5 The Appellant considers that the main issues for the appeal are therefore as follows:-

**Issue 1      What impact and level of harm the Proposed Development would have on the openness of the Green Belt; and whether that the benefits of the Proposed Development would amount to very special circumstances sufficient to outweigh that harm to the Green Belt.**

**Issue 2**      **What impact and level of harm would occur through the Proposed Development on the setting of the five heritage assets referred to in the second Reason for Refusal; and whether the benefits of the Proposed Development would be sufficient to outweigh that less-than-substantial harm.**

**Issue 3**      **Whether the public benefits arising from the Proposed Development outweigh the alleged harm in respect of Issues 1 and 2 identified above.**

### **Issue 1- Effect Upon the Green Belt**

9.6      Whilst it is accepted that during the lifetime of the development there would be an impact upon the openness of the green belt, the Appellant will present evidence to explain that the Proposed Development would not materially harm the sense of perceived openness of the Green Belt due to the low-profile nature of the Proposed Development. Furthermore there would be a long term enhancement of the green belt since the existing and proposed green infrastructure across the site would be retained and enhanced, which in turn would reinforce the landscape character and would remain after decommissioning as a positive legacy of the scheme in the long term. Indeed, with the continued growth of the vegetation, together with the proposed landscape, recreational and ecological proposals, the green infrastructure and the green belt in the longer term would be significantly enhanced.

9.7      A Green Belt Legacy Statement will be prepared that will form a technical appendix to Mr Cook's Proof of Evidence to explain this strategy in greater detail. In summary, the Proposed Development would increase recreational opportunities across the site. The overall character of the fields would remain, accepting that they would also accommodate a solar farm and the fields would return to potential agricultural use after the expiry of permission. The Appeal Site would continue in agricultural use as pastureland for sheep grazing which would form an integral part of the ongoing management and maintenance of the site.

9.8      The configuration of the network of fields would continue to remain and prevail with the scheme in place with significant strengthening and restoration of former and existing field boundaries. The public access would facilitate informal education opportunities. The enhanced green infrastructure would form significantly increased habitat would have a beneficial effect with regards to net biodiversity gain. The green infrastructure strategy would also allow the facilitate the opportunity to introduce historic landscape character reinstatement.

- 9.9 Beyond the public right of way network that crosses the site, the actual visual envelope and degree to which the Proposed Development would be seen from the surrounding area would be very limited in extent. The visibility of the scheme is relatively limited despite the overall size of the Proposed Development.
- 9.10 Only the landscape character within the site would change. Beyond the Appeal Site, the landscape of the surrounding area would remain physically unchanged. With the scheme removed after 35 years, the proposal would leave a significantly enhanced environment in landscape character terms.
- 9.11 The Reason for Refusal does not cite residential visual amenity as a specific concern, which is consistent with the Officer's Committee Report. Residential amenity is also not considered to be materially affected.

**Issue 2- Harm to the significance of designated heritage assets**

- 9.12 The Appellant will present evidence that:
- With regards to the Grade II Listed Slades Farmhouse, the harm caused to the heritage significance of the asset will be less than substantial and at the low end of the spectrum. Whilst the character of some of the historically associated farmland will change, no panels will be located in land to south-west across which there are views from the asset.
  - With regards to Hilfield Castle and Hilfield Castle Lodge, the proposals mainly lie beyond the area that was depicted as associated parkland on historic maps. A small area of former parkland, as denoted on historic maps, to the north-east of Hilfield Castle will have panels placed within it, but this area has changed through its severance from Hilfield Castle and the remainder of the grounds by a tree belt and the grounds of the Aerodrome, and its change of intrinsic character from grassland with scattered trees to arable cultivation. The change of character to the wider surrounds of the assets, including some areas under common ownership and occupation, will cause only less than substantial harm at the low end of the spectrum to Hilfield Castle and Hilfield Castle Lodge.
  - With regards to Aldenham House Registered Park and Garden, it is considered that no harm would be caused to the heritage significance of the asset through changes in setting. There will be no change to any areas which contribute to the significance of the heritage asset.

- With regards to Penne's Place Scheduled Monument, no change is proposed in areas which contribute to the significance of the asset through setting and no harm will be caused to its significance.

**Issue 3- Whether the public benefits of the scheme outweigh the alleged harm**

- 9.13 The Appellant will demonstrate that the Proposed Development draws significant support from Policy DM2 which promotes renewable energy generation development where the proposals do not have significant adverse impacts on the character, amenity and visual quality of the area and that impacts are or can be made acceptable in relation to the identified criteria. The significance of the location of the Appeal Site and its proximity to the adjacent Elstree substation will be explained by the Appellant.
- 9.14 Further significant support is derived from Policy SP1 of the Core Strategy (2013) which states that the Council will work with key local stakeholders to enable development in the Borough to make a sustainable contribution to delivering the Core Strategy Spatial vision and strategy promoting decentralised and renewable or low carbon sources without unacceptable impacts on the characteristics and features of the natural and built environment, green belt, heritage, biodiversity, flood risk or the historic environment. Further support is drawn from the updated interpretation of Policy CS17 of the Core Strategy (2013) as set out in the Council's Interim Policy Position statement which notes that "*The Council will encourage new development of renewable or sustainable energy generation subject to existing policy caveats*". The Appellant will argue that this is the case in respect of a consideration of these policies and their application to this Appeal.
- 9.15 It will also be explained that in terms of the emerging Regulation 18 Local Plan, further support would be drawn from Policy CC3 which establishes support for proposals for stand-alone sustainable or renewable energy facilities, subject to schemes being responsive to and appropriate for the site and locality incorporating suitable mitigation to manage potential impacts on local amenity and on the environment.
- 9.16 Taken overall and, taking into full consideration the Development Plan policies specifically cited by the LPA in their Reason for Refusal, the Appellant will argue that the Proposed Development is considered to comply with the Development Plan, when read as a whole, and receives additional significant support from

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national policy. Therefore, in accordance with the NPPF planning permission should be approved without delay (NPPF, paragraph 11 (c)).

9.17 In the alternative, the Appellant will also present the case that, should it be concluded that there is conflict with the Development Plan, there is a need to consider whether material considerations indicate that planning permission should be granted in any case.

9.18 The Appellant accepts that there will be some harm arising from the scheme in respect of the limited landscape impact and also the less than substantial harm to the setting of the heritage assets comprising Slades Farm, Hillfield Castle and Hillfield Castle Lodge.

9.19 However, the Appellant will explain that the following matters are considered to weigh in favour of granting planning permission:

- Generation of renewable energy and the national planning policy and energy policy support for the UK's transition to a low carbon economy, addressing the climate emergency whilst providing energy security and resilience
- Provision of landscape enhancements
- Provision of biodiversity and ecological enhancements, to the benefit of the appeal site and the adjacent Hilfield Park Reservoir Local Nature Reserve and Local Wildlife Site and the Aldenham Estate's own programme
- Provision of two new permissive public rights of way, which would further benefit the Belstone Football club
- Economic benefits of construction and business rates
- Provision of an Educational Strategy for the benefit of local people and school pupils
- Improvements to soil and agricultural land quality
- Aiding farm diversification objectives

9.20 The following matters will be argued by the Appellant to be neutral in consideration of the Planning Balance:



- Residential amenity
- Flooding and drainage (subject to appropriate planning conditions)
- Highways and transport (subject to appropriate planning conditions and entering into a S106 Undertaking)
- Noise (subject to appropriate planning conditions)

9.21 The appellant will draw attention to the advice of the LPA's Officer to the Planning Committee that the public benefits would amount to very special circumstances that would justify granting of planning permission despite the Green Belt location.

9.22 The Appellant concurs with the advice of the LPA's Officer and submits that the Proposed Development is in general accordance with the Development Plan when read as a whole and, even if the Inspector were to conclude that there would be some conflict with relevant policies:

- i. that would not necessarily lead to a conflict with the development plan taken as a whole; and
- ii. if it did, there are significant identified benefits that constitute material considerations indicating development should be approved notwithstanding that conflict.

## 10. DOCUMENTATION

- 10.1 A set of Core Documents will be agreed with the LPA in advance of the Public Inquiry.
- 10.2 In addition to the application documents, planning history and consultation responses, it is anticipated that the following will be referred to.

### **National Documents**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Overarching National Policy Statement for Energy (EN-1) (July 2011)
- National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)
- UK Government Solar Strategy 2014
- Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25 March 2015
- Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021)
- Climate Change Act 2008
- Climate Change Act (2050 target amendment) Order 2019
- Clean Growth Strategy published by the Department for Business, Energy and Industrial Strategy (BEIS) in October 2017
- UK Parliament's declaration of an Environmental and Climate Change Emergency in May 2019
- Energy White Paper: Powering our Net Zero Future published in December 2020
- UK Government's press release of acceleration of carbon reduction to 2035, dated April 2021

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- The latest version of the 'Digest of United Kingdom Energy Statistics', published July 2021
  - 'Achieving Net Zero' published by the National Audit Office in December 2020
  - 'Net Zero Strategy: Build Back Greener' published by the UK Government in October 2021
  - Guidelines for Landscape and Visual Impact Assessment 3<sup>rd</sup> Edition
  - Landscape Institute guidance on representative viewpoints and visualisations
  - National Character Area Profiles
  - Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment
  - Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Second Edition)
  - Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment
  - Statements of Heritage Significance, Analysing Significance in Heritage Assets, Historic England Advice Note 12

### **Local Documents**

- Local Plan Core Strategy Development Plan Document 2013
- Site Allocation and Development Management Plan 2016
- Policies Map, 2016
- Draft Hertsmere Local Plan Regulation 18, September 2021
- Hertfordshire Landscape Character Assessment: Hertsmere (2000)
- Biodiversity Trees and Landscape SPD (2010)
- GreenArc Strategic Green infrastructure Plan (2011)

- Hertsmere Borough Green infrastructure Plan (2011)
- Hertsmere Climate Change and Sustainability Action plan (October 2020)
- Hertsmere Climate Change and Sustainability Interim Policy Position Statement (adopted 2020)
- Relevant local historical documents in relation to the heritage asset cited in the second Reason for Refusal

### **Relevant Appeal Decisions and Legal Cases**

- Various legal judgements, including:
  - i. Catesby Estates Ltd v. Steer, EWCA Civ 1697, 2018
  - ii. EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council

10.3 The Appellant reserves the right to refer to additional documents to those outlined above in preparation of its case and in support of the proposals

## **11. PLANNING CONDITIONS AND OBLIGATIONS**

### **Planning Conditions**

- 11.1 An agreed set of Conditions will be provided to the Inspector before the start of the Public Inquiry.

### **Planning Obligations**

- 11.2 The Appellant will submit a deed pursuant to S106 of the Town and Country Planning Act in respect of securing local highway management measures.