



Department for
Communities and
Local Government

Mr James Hartley
Inazin Power Ltd
Swan Yard
West Market Place
CIRENCESTER
Gloucestershire
GL7 2NH

Our Ref: APP/Z3825/A/14/2218035

26 January 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY HUDDLESTONE FARM SOLAR PARK LTD:
HUDDLESTONE FARM, HORSHAM ROAD, STEYNING, WEST SUSSEX, BN44 3AD**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David M H Rose BA (Hons) MRTPI, who made site visits on 1 April 2015 and 29 September 2015 in relation to your appeal against the decision of Horsham District Council ('the Council') to refuse planning permission for the construction of a 32 hectare solar farm comprising arrays of photovoltaic panels and ancillary plant, equipment, equipment housing and underground cable to connect park to the national grid, in accordance with application ref DC/13/2420 dated 18 December 2013.
2. The appeal was recovered for the Secretary of State's determination on 21 August 2015 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 so that consideration could be given to any possible impact on the South Downs National Park.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation, dismisses the appeal 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 considerations

4. In deciding this appeal, 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. In this case the development plan consists of documents forming the Horsham District Local Core Strategy (LP) adopted in 2007. The Secretary of

State considers that relevant development plan policies include those set out in IR16-17.

5. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (the Framework) and the associated planning practice guidance; the UK Solar PV Strategy (parts 1 and 2) and subsequent policy publications; and the Written Ministerial Statement "Planning Update March 2015" which, amongst other matters, concerns solar energy and the protection of the local and global environment.

Main issues

6. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out in IR89.

Compliance with the development plan

7. The Secretary of State agrees with the Inspector that LP Policy DC 8 is the key development plan policy relating to renewable energy (IR17 and 90-91). For the reasons below the Secretary of State considers that the proposal conflicts with LP Policy DC 8, which states that renewable energy schemes including solar will be approved where they do not have a significant adverse impact on landscape, among other considerations (IR17). Consequently he considers that the proposal conflicts with the development plan as a whole, notwithstanding compliance with a number of other relevant policies (IR139).

Landscape impact

8. The Secretary of State agrees with the Inspector's analysis at IR 94-95 and 97-110, and conclusions at IR133-140 regarding the impact of the proposal upon the appearance of the landscape, including impacts on the South Downs National Park. There would be change to the character of the landscape which would be severe, even with proposed mitigation, within and immediately adjacent to the site. In this regard, the introduction of a visibly new 'feature' and its uncharacteristic regimentation would appear markedly out of place in the receiving landscape (IR133). The impact of the proposal on the countryside would be dramatic, most notably from the public footpath within the site and from its continuation to the north and from part of the bridleway between Ashurst Place Farm and Heron Farm. Sweeping views across a parkland-like landscape and their seamless integration with the rising slopes of the South Downs National Park would be lost to an unforgiving utilitarian aspect. Even with the degree of landscaping sought by the Council, the development would remain as highly intrusive and damaging to the rural scene. Moreover, the new screening between the footpath within the site and the installation would rob users of a tangible appreciation of the wider open countryside and severely impair the enjoyment of the route (IR134).
9. The proposed development would have little impact on views from the Downs Way; but it would stand out in a broad rural vista when viewed from the identified location in Henfield. The National Planning Policy Framework requires great weight to be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. The proposed development would be some distance from the South Downs National Park boundary and the primary adverse impact on the outlook of the designated area would be experienced from, and within the vicinity of, Tottington Mount where the solar farm would be visible over a relatively short distance. However, with appropriate mitigation

within the site, the effects on the outlook from the designated area would be very limited (IR135-137).

Living conditions

10. The Secretary of State agrees with the Inspector's assessment of the impact of the proposal on the living conditions at the 2 dwellings which the Inspector visited. He agrees with the conclusions that the proposal would not render either dwelling an unacceptable place to live. He agrees, however, that the proposed development would materially change the outlook and diminish enjoyment of the garden from Heron Farm (IR111-112).

Benefits

11. The proposal would contribute towards the Government's commitment to renewable energy generation in the drive towards tackling climate change and reducing the UK's emissions of carbon dioxide. The generation of 16MW of green energy per year (approximately 3,400 average households), saving some 9,000 tonnes of carbon dioxide per annum would contribute to national and local targets (IR131).
12. There would also be some biodiversity benefits (IR132). However the Secretary of State regards the existence of a viable grid connection as an operational necessity rather than a benefit per se to be weighed in the balance.

Other material considerations

13. The Secretary of State agrees with the Inspector's assessment regarding the matters covered at IR113-117. He does not consider that any of these matters adds weight either for or against the appeal proposal.

Conditions

14. The Secretary of State agrees with the Inspector's comments at IR118-130 on planning conditions and is satisfied that the conditions recommended at IR Annex B are reasonable and necessary, and would meet the tests in paragraph 206 of the Framework. However, the Secretary of State does not consider that the recommended conditions would overcome his reasons for dismissing the appeal.

The planning balance and conclusions

15. Weighing in favour of the proposal, it would contribute towards national and local targets for renewable energy generation and the Secretary of State places significant weight on to these benefits. However the Secretary of State is of the view that the period of 30 years, being the lifetime of the proposal, is a considerable period of time. Unlike the Inspector therefore (IR132), he has not afforded any positive weight to reversibility. He attaches moderate weight to the ecological benefits.
16. Weighing against the proposal is the harmful and pervasive impact on the appearance of the local landscape. The Secretary of State attaches substantial weight to this harm. Moreover, the Framework requires great weight to be given to conserving landscape and scenic beauty in National Parks, and the proposal would have a minor impact on the outlook from the South Downs National Park.
17. Though the proposal would not render Heron Farm an unacceptable place to live, the Secretary of State places limited weight on the materially changed outlook and diminished enjoyment of the garden if the proposal were to be implemented.
18. Overall, the Secretary of State concludes that the very local impacts of the proposal, most notably views from the public footpath within the site, its continuation to the

north and the related bridleway would be so pervasive that they would outweigh the benefits of the proposal. The minor impact on the outlook from the National Park is an additional, but not determinative factor (IR138).

19. The proposal would be in conflict with the development plan when read as a whole (IR139). It would, further, be at variance with paragraph 98 of the Framework for the reasons at IR140. The Secretary of State finds no material considerations that indicate the appeal should be determined other than in accordance with the development plan.

Formal Decision

20. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your appeal and refuses planning permission for the construction of a solar farm comprising arrays of photovoltaic panels and ancillary plant, equipment, equipment housing and underground cable to connect park to the national grid, in accordance with application ref DC/13/2420 dated 18 December 2013.

21. Right to challenge the decision

22. 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.
23. A copy of this letter has been sent to Horsham District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Julian Pitt

JULIAN PITT

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by David M H Rose BA (Hons) MRTPI

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

Date: 18 November 2015

Town and Country Planning Act 1990 Horsham District Council Appeal by Huddlestone Farm Solar Park Ltd

Site visits made on 1 April and 29 September 2015

Land at Huddlestone Farm, Horsham Road, Steyning, West Sussex, BN44 3AD

File Reference: APP/Z3825/A/14/2218035

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File Ref: APP/Z3825/A/14/2218035

Land at Huddlestone Farm, Horsham Road, Steyning, West Sussex, BN44 3AD

- 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 Huddlestone Farm Solar Park Ltd against the decision of Horsham District Council.
- The application Ref DC/13/2420, dated 18 December 2013, was refused by notice dated 16 April 2014.
- The development proposed is a solar farm comprising arrays of photovoltaic panels and ancillary plant, equipment, equipment housing and underground cable to connect park to the national grid.

Summary of Recommendation: The appeal be dismissed.

Preliminary Matters

Reason for refusal

1. The Council refused planning permission for the following reason: -

'The proposed development by reason of its siting, extent and the character of the use would result in significant adverse visual amenity impacts on users of the footpaths on the site and in the surrounding area together with owners of nearby residential properties as well as significant adverse landscape character impacts on the site itself and its immediate surrounds as well as on the setting of the South Downs National Park. The proposal is therefore contrary to the requirements of Policies CP1, CP2 & CP3 of the Core Strategy, Policies DC1, DC2 and DC9 of the General Development Control Policies and Section 11 of the National Planning Policy Framework'.

Determination of the appeal

2. The Secretary of State has directed that, in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, he shall determine this appeal so that consideration can be given to any possible impact on the South Downs National Park.

Written Ministerial Statement

3. On 25 March 2015 a Written Ministerial Statement was made in respect of solar energy: protecting the local and global environment, with particular reference to the use of best and most versatile agricultural land.¹ The main parties have been given the opportunity to comment on this statement.

Drawings

4. The schedule of plans and documents listed in the Council's decision notice refers to a series of plans received on 7 January 2014 and a single plan (Site Layout Drawing 2369-PL-04 – Rev 03) received on 4 March 2014.² It is apparent that other drawings were before the Council,³ notably: - 2369-PL-03-A Rev 01; 2369-PL-03-1 Rev 01; 2369-PL-03-2 Rev 01; 2369-PL-03-3 Rev 01; and 2369-PL-03 Rev 01.⁴ These form the basis of my consideration.

¹ HCWS488

² It is noted that in the Council's Schedule of suggested conditions this drawing is recorded as having been submitted on 24 March 2014

³ From the Council's Schedule of suggested conditions and confirmation at the site visit

⁴ Drawing 2369-PL-03 Rev 01 is not listed in the Schedule of conditions submitted by the Council – at the site visit it was confirmed that this drawing was also before the Council

Site visits

5. I undertook an accompanied site visit with representatives of the local planning authority and the appellant on 1 April 2015. This included walking over the appeal site along the route of the public footpath running north from Huddlestone Farm and joining the bridleway to the north of the site (walking westward and eastward); and the Downs Link (to the east). I also made an unaccompanied visit to an elevated vantage point on the edge of Henfield, Southview Terrace, (at the request of the local planning authority).
6. On 29 September a second site visit was made, in the company of the above parties, which included visits to two residential properties, at the request of the occupants: - Heron Farm (to the north-east of the site); and Ashurst Place Farm (to the north of the site). It also entailed walking from Devil's Dyke car park (National Trust), approximately 7.5 kilometres from the appeal site, westward along the South Downs Way to a point approximately one kilometre south-west of Truleigh Hill Youth Hostel (Tottington Barn) before returning to the bridleway descending via Tottington Mount to Tottington Manor Farm.
7. I also walked part of the South Downs Way in the vicinity of Chanctonbury Ring Fort, some six kilometres to the south-west of the appeal site.

The Proposals

8. The proposed solar farm would occupy an area of some 32 hectares of agricultural land, with the equipment placed on a lesser area taking account of its offset from field boundaries and fence lines and the aisles between the arrays.⁵ It would take access from Horsham Road to the west of the site, along an existing route to the farm. The project would be accompanied by landscape works and ecological enhancements; and the development would have an operational life of 30 years.
9. The development would consist of rows of solar panels (strings), composed of photovoltaic cells, (rising to approximately 2.3 metres in height), arranged east to west to provide a southerly aspect for the panels, and ancillary equipment. The latter would include: - approximately thirteen transformer/inverters to collect the power generated, situated within small buildings at strategic points within the site; two inverter housing 'containers' (2.6 metres in height);⁶ and a district network operator connection point (substation) (2.6 metres in height).
10. The site would be enclosed with a deer fence (2.0 metres in height);⁷ and provided with site CCTV on poles (typically 2.0 - 3.0 metres above ground level); and low level motion detectors.⁸ Connection to the grid would be via an underground cable to an existing pylon some 30 metres to the east of the site. Internal access tracks would be of permeable construction and capable of being removed at the end of the operational period.

⁵ Proposed site layout; Drawing No 2369-PL-04 Rev 03

⁶ Drawing PL-10-AB2 Rev 01

⁷ Drawing PL-08 Rev 01

⁸ Drawing PL-11 Rev 01

The Site and Surroundings

11. The appeal site is located approximately 2.0 kilometres to the north of Steyning in an area of open countryside. The South Downs National Park wraps around the western and southern edges of Steyning, continues to the south of Bramber and Upper Beeding and thereafter extends north-eastwards and eastwards. Notable vantage points within the National Park include Chanctonbury Ring Fort and Tottington Mount (to the north-west and east of Steyning respectively). The National Park, at its nearest point, is approximately 3.5 kilometres from the appeal site.
12. The appeal site lies approximately one kilometre to the east of Horsham Road (B2135); a public footpath runs along its western boundary, turns eastward along part of its northern boundary and thereafter runs northwards to join a track (public bridleway) running from Horsham Road to the River Adur (some 700 metres to the east of the site). The track provides access to several dwellings, including Ashurst Place Farm and Upper Northover Farm (approximately 300 - 400 metres to the north of the appeal site); and Heron Farm (some 200 - 300 metres to the north-east of the appeal site).
13. The main complex of Huddleston Farm is located to the south-west of the appeal site; and an unrelated dwelling, Shelleys Cottage, is situated to the south of the site (around 200 metres away). The wider locality contains a scatter of farms and dwellings with several properties located in the vicinity of Horsebridge Common, alongside Horsham Road, to the north-west of the appeal site.
14. The appeal site consists of two fields separated by a post and wire fence along a former hedgeline which retains a number of high quality trees. The combined site, with the exception of an open southern boundary, is defined by hedgerows, gappy in places, and two areas of woodland on its western side. The site also contains a number of 'stand-alone' trees of moderate and high quality. The wider locality is typified with field boundaries formed of mature hedgerows, hedgerow trees and blocks of woodland.
15. The site falls from south to north from approximately 18 metres to 7 metres above ordnance datum. The agricultural land quality of the appeal site is classified as Grade 3 (Weald Clay). Detailed analysis shows it to be Subgrade 3b due to a soil wetness limitation.⁹ It is not classified as '*best and most versatile agricultural land*'.

Planning Policy

16. The development plan includes two documents forming part of the Horsham District Local Core Strategy (2007) namely the Core Strategy and the General Development Control Policies. The Council's decision notice cites the following policies:-
 - (a) Policy CP 1 confirms that the landscape character of the District will be maintained and enhanced;
 - (b) Policy CP 2 seeks to maintain environmental quality;

⁹ Land at Huddleston Farm, Horsham Road, Steyning: - Agricultural Land Classification (April 2015)

- (c) Policy CP 3 requires high quality and inclusive design for all development;
 - (d) Policy DC 1 indicates, outside built-up area boundaries, development will not be permitted unless it is considered essential to its countryside location and in addition meets one of four criteria relating to agriculture or forestry; minerals or waste disposal; quiet recreation; or ensures the sustainable development of rural areas;
 - (e) Policy DC 2 accommodates development where it protects and/or conserves and/or enhances the key characteristics of the landscape character area in which it is located; and
 - (f) Policy DC 9 sets out a series of development principles including making efficient use of land; protecting residential amenity; securing good design; and retaining important landscaping and natural features.
17. Other relevant policies include: -
- (a) Policy DC 5 requires measures to protect, conserve or enhance biodiversity;
 - (b) Policy DC 6 recognises the importance of trees to the character and appearance of the area and seeks to ensure that they are retained;
 - (c) Policy DC 7 aims to ensure that new development would not be at risk of flood or increase the risk of flood elsewhere;
 - (d) Policy DC 8 explains that renewable energy schemes (including solar) will be approved where they do not have a significant adverse impact on landscape character, wildlife, areas of historic significance or amenity value;
 - (e) Policy DC 10 relates to the protection of archaeological sites and ancient monuments and their settings;
 - (f) Policy DC 13 seeks to ensure that development does not have any adverse impact on the fabric or setting of listed buildings; and
 - (g) Policy DC 40 requires the provision of safe and adequate access.

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The Case for Huddleston Farm Solar Park Ltd

Scheme objectives

18. The objectives of the development are: -
- (a) to generate approximately 16MW of green energy per year (approximately 3,400 average households);
 - (b) assist in slowing the impact of climate change with a saving of some 9,000 tonnes of carbon dioxide per annum;
 - (c) contribute to national and local targets and help address the need for a secure and diverse energy supply;
 - (d) deliver ecological enhancements to improve the biodiversity of the site; and
 - (e) minimise the environmental and amenity impact of the proposals and ensure environmental benefits are maximised.

Planning policy

19. The issue of climate change, which came to prominence in the 1980s, has gained momentum with increased targets and commitments with milestones being reached under the Copenhagen Accord and the Cancun Climate Change Conference.

20. The National Planning Policy Framework emphasises the need for sustainable development (paragraph 14); a recognition of the responsibility on all communities to contribute to energy generation from renewable or low carbon sources (paragraph 97); and for local planning authorities to approve applications if their impacts are (or can be made) acceptable (paragraph 98). The Framework also supports a prosperous rural economy (Section 3); and the conservation and enhancement of the natural environment (Section 11).
21. In turn, Planning Practice Guidance encourages local planning authorities to consider local potential for renewable energy when drawing up plans. In this instance, the current development plan is silent. However, the Practice Guidance acknowledges that proximity of grid connection infrastructure is a relevant technical consideration.
22. The UK Solar PV Strategy (parts 1 and 2)¹⁰ confirms, amongst other guiding principles, that installations should be appropriately sited; proper weight should be given to environmental considerations; and communities should be allowed to influence decisions. Although it is acknowledged that smaller-scale residential and commercial rooftops have a role to play, utility-scale solar parks will continue to make a meaningful contribution to the UK's energy supply.
23. Planning for Climate Change – Guidance for Local Authorities also provides a number of good practice points including mitigation of any adverse impacts through careful consideration of location, scale and design; and to give significant weight to the wider environmental, social and economic benefits of renewable energy projects.
24. Turning to the policies cited by the Council in its reason for refusal, although the development may, in the short term, result in a marginal impact on the character of the area in its immediate vicinity, it would not result in a permanent or irreversible impact on the character of the area as a whole.¹¹ This is borne out by the '*no objection*' response from the National Park Authority. Further, the measures proposed in the Landscape and Environmental Management Plan would promote increased biodiversity;¹² and no trees or hedgerows would be lost.¹³ As such there would be no material conflict with Policies CP 1, DC 1, DC 2, DC 5 or DC 6.
25. The project would deliver renewable energy consistent with Policy CP 2; and, the extent to which Policies CP 3 and DC 9 might be material, it is to be noted that the proposal is a utilitarian and functional development out of necessity; impacts have been minimised as much as possible; and the level of community support is comparatively strong.
26. The Flood Risk and Drainage Assessment, submitted with the application, confirms that the proposal would be located in Flood Zone 1 (low flood risk where all land uses are held to be appropriate); the development would not increase surface water run-off; and precautionary mitigation measures are proposed.¹⁴ Overall, the requirements of Policy DC 7 would be met.

¹⁰ Published by Department of Energy and Climate Change

¹¹ Landscape and Visual Impact Assessment

¹² See also Ecological Survey

¹³ Tree and Hedgerow Survey Report

¹⁴ Flood Risk and Drainage Assessment (December 2013): Paragraph 5.3

27. Policy DC 8 supports renewable energy and the project would not have any adverse impact on *'landscape character, wildlife or areas of historical value or amenity'*.
28. Potential effects on archaeological sites, ancient monuments and listed buildings, and their settings, have been assessed.¹⁵ No adverse impacts have been identified and the proposal would accord with Policies DC 10 and DC 13. Finally, transport and access has not been identified as an impediment and there would be no conflict with Policy DC 40.
29. The emerging Horsham District Planning Framework is in the early stages of preparation. However, the primary emphasis of the Preferred Strategy is the requirement for sustainability in all forms of development and the recognition that carbon dioxide emissions are a major contributory factor on climate change.
30. Horsham District is committed to reducing carbon emissions. To-date there has been a relatively low take up of large/utility scale renewable projects with only three permitted schemes of 1MW or greater. The proposal would make a tangible, immediate contribution which is not identified as being achievable elsewhere.¹⁶

Site selection and scheme design

31. Although it is accepted that a 'brownfield' location for such development would be preferable, there is a dearth of such sites in the District in terms of size and due to competition from other, higher value, developments. A full search was made along the various 33kV power line corridors but no obvious brownfield sites were found to be available. In addition, the ability of the existing 33kV grid infrastructure network to accept utility scale projects is heavily constrained and restricted, generally, to the southern half of the District.¹⁷
32. The appeal site was chosen as it was available and had access to a viable grid connection. The lowest grade of land on the farm was selected (Grade 3); however, the site will remain in agricultural use for grazing and taking a grass crop. The submitted Landscape and Environmental Management Plan provides for the planting of species-rich grassland and additional habitat creation through new hedgerow and tree planting. Moreover, the development would be reversible on the expiration of a 30 year 'temporary' planning permission.
33. The proposal would comply with each of the ten commitments of the Solar Trade Association,¹⁸ including: - use of lower quality agricultural land; avoidance of sensitive landscapes; screening; community engagement; continuing agricultural use; improved biodiversity; and appropriate decommissioning.
34. In addition, as the south of England is comparatively favourable for receiving solar radiation energy, the location of the site, less than 10 kilometres from the south coast, makes it an optimum location.

¹⁵ Heritage Desk-Based assessment

¹⁶ Statement of Case (paragraphs 6.1 - 6.5) which predates approved solar farm schemes at Priors Byne Farm (APP/Z3825/A/14/2219843 dated 18 March 2015); and Sopers Copse, Ashurst (APP/Z3825/A/14/2222037 dated 9 September 2015)

¹⁷ Drawing Number 132_33NET.DGN ISSUE 20

¹⁸ Statement of Case (pages 18 – 20)

The planning application

35. Consultation with the local community took place in December 2013. The response was generally positive with the most significant issue relating to the possibility of providing a direct benefit to the community. During the course of the planning application, and before it was determined, a multi-faceted community offer was made which included: - a community investment bond scheme; an annual community payment at £10,000 per annum (index linked) over a period of 20 years; and a fully funded 30kW rooftop scheme for Steyning Grammar School.
36. A planning obligation has not been concluded as the benefits on offer are not necessarily required to make the development acceptable in planning terms. However, Inazin Power Ltd, which acts for the appellant, has agreed to, and paid, community benefits elsewhere without a formal agreement in place.
37. In learning that the proposal would be recommended for refusal, and following a meeting with the Council's landscape officer, revised proposals were submitted which included: - a reduction in the number of panels proposed; an increased stand-off from site boundaries and trees; planting of a hedge on the north-western side of the site to the east of the public footpath; and additional tree planting on the northern boundary.¹⁹
38. However, the appellant considers that the Planning Committee was intent on refusing the application with little regard for climate change, targets, energy security and the community benefits on offer; and the efficiency and effectiveness of renewable technologies.

Landscape Character Areas

39. At a national level, the site is located in the Low Weald Landscape Character Area. Its key characteristics, of particular reference to the locality of the site, include: - broad, low lying and gently undulating clay vales; tall hedgerows with numerous mature trees; and rural in character with dispersed farmsteads.²⁰
40. Locally, the site falls within two landscape character areas as set out in the West Sussex Landscape Land Management Guidelines, namely: Wiston Low Weald (LW7); and Upper Adur Valley (LW9). Selected key characteristics of the former include: - gently undulating landform; predominantly small to medium-sized fields, enclosed by woodlands, shaws (remnant strips of cleared woodland) and hedgerows; and isolated trees in pasture. For the latter: - there are relatively few panoramic or long views within the valley although views to the south are dominated by the steep downland scarp; and small woodlands and networks of hedgerows with hedgerow trees.²¹
41. Land Management Guidelines include the management and restoration of hedgerow patterns and shaws and replanting of hedgerows where they have been lost; replanting and management of isolated trees in pasture; conservation and enhancement of the undeveloped character and pastoral qualities of the valley; and ensuring that any new development has a minimum impact on views from the Downs and is integrated within the landscape.²²

¹⁹ Proposed site layout; Drawing No 2369-PL-04 Rev 03 (replacing Rev 01)

²⁰ Landscape and Visual Impact Assessment (paragraph 4.4 and Appendix 4)

²¹ Landscape and Visual Impact Assessment (paragraph 4.5 and Appendix 4)

²² Landscape and Visual Impact Assessment (paragraph 4.8 and Appendix 4)

Landscape and visual effects

42. It is acknowledged that the proposed development would be visible from some locations; but the extent to which it would be seen or recognisable, and its overall impact on landscape character, would be limited and within acceptable tolerances. Any resultant harm would be outweighed by the provision of renewable energy and the wider associated environmental benefits. It should also be recognised that the countryside has changed over time and the proposal would represent a further step in an evolving landscape resulting from alternative uses, farm diversification and changing farming practices.
43. In terms of landscape character, the area comprises broad, low-lying and gently-undulating clay vales, with an intricate mix of small woodlands, a patchwork of fields and hedgerows.
44. The amended Landscape and Visual Impact Assessment²³ notes: - *'The area has a number of woodlands and shelter belts which help to break up the long distant views of the South Downs giving form and character. Dramatic views of the South Downs are a dominant feature in the landscape'*. Southerly views are therefore dominated by the backcloth of the Downs; and views from limited locations along the Downs are filtered or restricted by established landscape features. As such, *'taking into account the key characteristics of the site its sensitivity to solar pv is assessed to be low'*.²⁴
45. As the proposal would not change landform or result in the loss of natural features, the main concern must therefore be whether the equipment to be placed on the land would be so unsightly and intrusive so as to cause the adverse impacts alleged by the local planning authority. The Landscape and Visual Impact Assessment finds the effects to be acceptable.
46. Moreover, the nature of the development provides little opportunity to change its scale and appearance with the former being influenced by viability. In addition, it is considered that a large, single, development within a landscape, which has the capacity to absorb it, is preferable to the piecemeal dispersal of smaller installations. The development as a whole would be low-lying with buildings kept to a minimum and similar in height and scale to numerous outbuildings and sheds commonly found in rural areas. The panels would be less reflective, and less intrusive, than glasshouses and polytunnels.
47. In terms of adjacent views, the only publicly accessible views from areas immediately adjacent to the site would be from the public footpath inside the western boundary of the site which then turns east across the northern boundary. The Landscape and Visual Impact Assessment acknowledges that the impacts from the footpath would be moderate.²⁵ From the north, only the rear of the arrays would be visible and they would be seen against backdrop topography;²⁶ and new planting would provide mitigation. Views into the site from the footpath to the west would be screened by a new hedgerow.

²³ February 2014

²⁴ Landscape and Visual Impact Assessment (paragraph 4.14)

²⁵ Viewpoints 1 and 2

²⁶ Landscape and Visual Impact Assessment (paragraph 4.18)

48. Moving away from the site, views from the north would be available from the public right of way adjacent to Upper Northover Farm (approximately 360 metres away).²⁷ The Landscape and Visual Impact Assessment records: - *'Receptors using this public right of way are considered to be of medium sensitivity. Views from upper storey windows from Upper Northover Farm of the development may be likely of the site rising to the south with views partially filtered by intervening vegetation and built form. This receptor is considered to be of medium sensitivity'*. There is nothing to suggest that the proposal would harmfully enclose, dominate or overwhelm the living environment of this dwelling.²⁸
49. Shelleys Cottage, to the south-east of the site is situated beyond the brow of the hill on which it sits and there is intervening vegetation which screens it from the site. No objections were raised by the occupant of this property.
50. The potential for wider, longer distant, views is limited as illustrated in the 'Zone of Theoretical Visibility' (ZTV). *'It is clear from the ZTV that within a radius of 5 kilometres the site is visually contained by the landform particularly to the south. There are no prominent viewpoints in the locality. At distances of over 2 kilometres any views are likely to be insignificant due to the low profile of the proposed development'*.²⁹
51. With regard to Tottington Mount, it is acknowledged that this represents an important viewpoint. However, at 3.9 kilometres from the site, with intervening trees and hedgerows heavily filtering views towards the site, and with its landscape backdrop, the magnitude of change would be low and the visual effect would be moderate.³⁰ Elsewhere along the South Downs, for instance at Chanctonbury Ring Fort (4.7 kilometres away), the impact would be far less (negligible) and would therefore have only a minor adverse visual effect.
52. All of the remaining viewpoints considered within the Landscape and Visual Impact Assessment show that the proposal would have a very limited impact. The Council's concerns about the effect on views from the Downs Link, particularly from the Henfield direction, have to be considered in the knowledge that the views from this route are almost entirely concealed by intervening topography and vegetation; and any views would be at a distance of least one kilometre.
53. Having noted the measures suggested by the local planning authority to secure adequate mitigation,³¹ the appellant would be prepared to accept a condition requiring the additional landscaping sought if the decision maker considers this to be a necessary to secure the grant of planning permission.
54. In particular, such measures would ameliorate the alleged harm to the setting of the National Park and also to the immediate landscape, in light of the Council's concern about the impact of panels on an undulating landscape. They would also provide additional screening for the 'functional' buildings on

²⁷ Viewpoint 4 – a short distance to the east of Ashurst Place Farm

²⁸ No reference is made to Ashurst Place Farm which has a more direct, principal, aspect and which I have used for my assessment in light of the site visit made

²⁹ Landscape and Visual Impact Assessment (paragraph 4.17)

³⁰ Viewpoint 12

³¹ Set out in paragraph 78 below

the site; and the planting of a *'mature native species hedgerow of 2.0 - 2.5 metres in height at the time of planting'* on the eastern side of the public footpath which runs along the western boundary of the site would provide 'instant' screening. Implementation of those measures would also secure compliance with Policy DC 8.

Biodiversity

55. The proposed development would deliver a net gain by removing intensive farming practices from the land for over 30 years and focusing on the planting of diverse grassland, hedgerow and tree planting, and smaller-scale habitat creation. It would also remove CO₂ emissions from the air by its very existence and allow the soil to recover from chemical usage.

Farm diversification

56. Although Huddlestone Farm is one of the best managed mixed farming units in the country, it runs on the edge of viability most years due to high input costs, comparatively lower arable yields and, particularly in recent years, repeated poor weather events. The proposal would provide a stable source of income to underpin the farm unit for the future, with employment provided for the farm staff in the maintenance of the ground around the arrays.³²
57. Huddlestone Farm extends to some 220 hectares which forms part of an agricultural holding amounting to over 525 hectares. The appeal site sits on Weald Clay with its yield potential amounting to approximately 1.85 tonnes of wheat less per hectare (or 12.35 tonnes of maize per hectare) compared to the more fertile Greensand soils also found on the farm. The lower yields are accompanied by increased production costs due to the relative cost of cultivation.
58. The farm supports a dairy herd of some 400 cows, 300 sheep and varied arable cropping. The loss of land to the solar farm would not affect agricultural activities or employment on the farm. Although the business is committed to agriculture, producing over 4 million litres of milk per year for Tesco, 1,000 tonnes of bread making wheat and over 500 prime lambs per year, diversification is important to withstand unpredictable events and to ensure a sustainable business for the future. Protecting the viability of farm holdings is a material planning consideration.

Local representations

59. The planning application attracted few objections being limited to a joint letter from two nearby residents and an individual who occasionally walks the area but lives 12 kilometres away. Fifteen individuals/groups, including the Parish Council, expressed support; and there was strong endorsement for the community benefits on offer.

Other matters

60. Although the proposed solar farm would not power the local community directly, it is likely that the export of electricity into the regional utility network would be drawn locally and of benefit to improving local energy security in the event of shortages of power from the national grid.

³² Agricultural and Diversification Plan

61. Local concerns about potential noise have been misunderstood in that the noise from invertors would be 75dB when measured one metre away from the individual item of equipment; and it is unlikely that anything would be heard beyond the boundaries of the site.

The planning balance

62. The proposal should be determined in accordance with the development plan and the wider policy considerations of the National Planning Policy Framework and the Planning Practice Guidance for Renewable and Low Carbon Energy. Therefore, the effects of the proposal need to be weighed against the need to tackle climate change, the drive to provide renewable energy and the wider environmental, economic and social benefits of renewable energy development. Overall, it is considered that the Council has placed insufficient weight on the need for renewable energy to meet its targets and the limited number of locations where such developments could be accommodated.

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The Case for Horsham District Council

Principle of development

63. The proposal is considered to be acceptable in principle, consistent with Policies DC 1 and DC 8 of the General Development Control Policies; and, in accord with the objectives of sustainable development set out in paragraph 7 of the National Planning Policy Framework. However, the adverse impact of the development on the landscape would outweigh its benefits. In this regard, whilst Policy CP 2 encourages renewable energy sources, the sub-text indicates that *'the scope is relatively limited because of the potential impact on the landscape*'.

Landscape and visual effects

64. The appeal site lies within an area defined as 'Steining and Henfield Brooks Character Area' (O3) in the Horsham District Landscape Character Assessment 2003. It is distinguished by an alluvial floodplain landscape with generally gentle valley sides. The locality of the site is typical of the character area in terms of field patterns, hedgerows and farms on the valley sides overlooking the floodplain. There has been some deterioration in landscape condition, through loss of hedgerows, change of pasture to arable and the visual intrusion from pylons. However, the assessment notes the generally high sensitivity to change of this landscape given its openness and many intrinsic landscape qualities which include panoramic views of the South Downs, scarp foot-slopes and the Adur river valley.
65. The aim is to conserve the tranquil and undeveloped character of the landscape; to ensure that new development on the valley sides is small in scale; and to conserve small scale patterns of pastures. The appeal proposal would result in a substantial and harmful change over a relatively long period of time which would be compounded by the fundamental failure to incorporate adequate mitigation.
66. The appellant's Landscape and Visual Impact Assessment underplays the likely adverse effects arising from the proposal. In terms of landscape character, the site itself, and the land immediately surrounding, would experience substantial

change due to the presence of panels in characteristic rural views. Moreover, the development would be affected to a moderate-major adverse degree in terms of intruding into the characteristic views from the South Downs National Park with the wide sweep of the Downs from Tottington Mount to Chanctonbury Ring Fort.

67. Significant major and moderate adverse effects for the visual amenity of public rights of way would occur in the following locations: - the public footpath which follows the western boundary of the site and part of its northern boundary; the bridleway immediately to the north of the site extending eastwards from Northover Farm to the River Adur; points along the Downs Link (a right of way of strategic importance), albeit limited to several locations in the vicinity of Henfield where a less substantial hedgerow would permit winter views and at one point where a public seat has year-round views; and from the bridleway on the South Downs at Tottington Mount. A number of residential properties would also be adversely affected in the immediate vicinity of the site.
68. Although the proposal is accompanied by landscaping and planting proposals, new hedgerows and tree planting as mitigation would not address the adverse effects from the adjacent public footpath whilst the planting becomes established (up to 15 years); and it would fail to address the impacts from higher ground within a designated landscape to the south which overlooks the site. It is also worthy of note that the provision of pole mounted CCTV cameras would appear alien; and the inverter housing 'containers' would have a hard, functional, utilitarian appearance which would not be remedied by the offer to paint them green.
69. In response to the Council's concerns, the appellant submitted revised proposals showing a slightly reduced development footprint incorporating further set back from boundaries and trees; a reduction in the number of panels; and revised landscaping proposals.³³ However, it was considered that these amendments were relatively minor and insufficient to overcome the local planning authority's objection. Overall, the proposal, set in an undulating landscape, would have a negative impact on the rural environment.
70. Although the appellant asserts that *'..... the best sites are either level, or with a south facing slope; [and] the selected site meets all of the criteria set out above'* it is notable that the appeal site is undulating with a gentle north facing slope to the watercourse on its northern boundary.
71. Whilst the appellant seeks to derive considerable support from the Planning Practice Guidance on Renewable and Low Carbon Energy, paragraph 007 makes clear that *'local topography is an important factor in assessing whether large scale solar farms could have a damaging effect on landscape; proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration; [and] protecting local amenity is an important consideration which should be given proper weight in planning decisions'*.

³³ Proposed site layout; Drawing No 2369-PL-04 Rev 03 (replacing Rev 01)

72. In addition, at paragraph 013, the guidance confirms that *'the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes'*. Moreover, the effect on landscape of glint and glare is a further factor; but this has not been assessed by the appellant.

Biodiversity and ecology

73. The proposal was accompanied by an extended Phase 1 ecological survey and a Landscape and Ecological Management Plan. These are considered to be sufficient and appropriate and no additional surveys would be required. The proposal would thus accord with Policies CP 2, CP 3, DC 2, DC 5 and DC 9; and also with paragraph 118 of the National Planning Policy Framework. The County Ecologist raises no objections.

Flooding

74. The appeal site is located wholly within Flood Zone 1, an area of low flood risk. The submitted Flood Risk and Drainage Assessment confirms, in terms of surface water run-off, that there would be no increase in rates or change to run-off/dispersal routes; and no part of the development would impinge on the watercourse along the northern boundary of the site. The Environment Agency raises no objections to the proposal subject to the implementation of the mitigation measures contained in the Flood Risk and Drainage Assessment.

Highway safety

75. It is considered that the level of vehicle movements during the construction period (an average of 12 movements per working day over a period of three months) is unlikely to cause safety issues at the junction of the existing access on to Horsham Road subject to the project being implemented in accordance with the submitted Construction and Traffic Management Plan; and liaison taking place with a second construction project (anaerobic digester) at Wappingthorn Farm to ensure that safe practices are maintained should construction on the two sites coincide.

Other matters

76. Although the appellant seeks to justify the proposal by reference to the relative scarcity in the District of suitable voltage grid infrastructure to connect to utility scale renewable projects, no substantive evidence has been submitted as to the relative landscape sensitivity and capacity of the different landscape character areas crossed by the grid infrastructure. Given the overall extent of the 33kV lines (over 60 kilometres), the appellant's claim that suitable sites are *'massively constrained'* is not clear. Similarly, there is nothing to suggest that a smaller scheme would not be viable.
77. Reference is made to three other solar farms which the Council has permitted. However, these are much more visually enclosed by existing woodland and hedgerows; and/or seen partly within the context of an existing business park; and/or significantly smaller in scale than the appeal proposal.
78. The advice offered by the Council, to the appellant, as to the steps necessary to secure appropriate mitigation included: -
- (a) an 'instant', mature native species hedgerow (2.0 – 2.5 metres in height at the time of planting) on the western boundary of the site, between the existing footpath and the proposed solar panels;

- (b) the restoration of the historic hedgerow field pattern in the centre of the site so as to enhance landscape character and provide some visual mitigation in views from public rights of way overlooking the site from higher ground; and
 - (c) the provision of woodland and woodland edge planting to reinforce existing hedgerows on the northern and north-eastern boundaries of the site and in the centre of the site for the reasons given in (b) above.
79. Whilst the appellant has indicated the offer of a *'multi-faceted community benefit'*, comprising an annual community payment and a rooftop photovoltaic scheme for Steyning Grammar School, no binding, formal, mechanism has been offered. Moreover, these measures are not considered to be necessary to make the development acceptable in planning terms and, as such, they cannot be considered to be material.

The planning balance

80. It is acknowledged that the proposal would provide significant benefits in the large scale generation of renewable energy which has the support of local and national policies; and it would not give rise to concerns about flooding, biodiversity and highway safety. However, the significant and adverse visual amenity and landscape impacts would significantly and demonstrably outweigh the benefits arising from the scheme.

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Written Representations

81. The Council's Development Management Report identifies one letter of objection on behalf of two local residents on the following grounds: -
- (a) inappropriate scale of development in countryside location;
 - (b) alien intrusion into an area of unspoilt countryside;
 - (c) adverse visual impact;
 - (d) loss of agricultural land;
 - (e) increased risk of flooding;
 - (f) proposed landscaping would not mitigate the adverse visual impact; and
 - (g) no significant benefit for local employment.
82. It also records support from Steyning 10:10 Climate Action Group (part of Community Energy South, an umbrella group formed to promote the development of community energy schemes in the area). Further expressions of support (after the preparation of the report) endorse the lead of the action group with backing for community involvement; acceptance of landscape impacts with screening for neighbouring properties with views of the site; and the positive benefits for wildlife.
83. Steyning Parish Council raised no objection; albeit there was some concern expressed with regard to the footpath and the natural walk and a wish for some community involvement.
84. The appeal has generated five expressions of objection as set out below: -

- (a) visual impact and loss of enjoyment to the Steyning Walk (publicised and funded by a lottery grant);³⁴
 - (b) uncertain impacts on wildlife;
 - (c) impact on residential amenity (Heron Farm);
 - (d) noise;
 - (e) most of the letters of support reported to the Planning Committee followed the offer of community benefits through a local campaign;
 - (f) land used for growing food should not be taken out of productive use; and
 - (g) such installations should be placed on warehouses and large shopping complexes.
85. A submission from Steyning 10:10 sets out its '*strong support*' for the proposal following a survey to gauge public opinion³⁵: -
- (a) 230 responses were received most of which were from local postcodes;
 - (b) 86.7% of respondents considered that the benefits of the proposed scheme outweighed the landscape impacts;
 - (c) 91% of respondents were in favour of the scheme, including 67% who were strongly in favour; less than 5% were against or strongly against;
 - (d) 67% were concerned about climate change and 26% were quite concerned; only 3% were not concerned; and
 - (e) 77% considered taking action in Sussex was a big priority; 19% felt that something should be done about it; less than 4% were not convinced action is necessary or were not sure.
86. The action group considers that the unusually good package of direct benefits to the local community is an added attraction, comprising: - 30kW of pv panels for Steyning Grammar School; a contribution of £10,000 per annum (index linked) for 20 years to fund local energy projects; and a community bond which would offer an innovative and low risk way for people to invest in the solar farm (consistent with the Government's intentions to encourage local ownership of renewable energy projects). These provisions should be included in a condition if permission is granted.
87. A letter from a Parish Councillor, who sits on its Planning Committee, enlarges on the Parish Council's original comments and a later move to 'upgrade' the expression of 'no objection' to 'strongly supports' which was frustrated by the subsequent meeting, shortly before the deadline for comments to be made on the appeal, being inoperative.

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³⁴ Copy of leaflet accompanying objection – a circular walk described as '*about 6.5 miles*'

³⁵ Including a presentation made available on line to inform participants and copy of survey questions and collated responses

Inspector's Conclusions and Recommendation

88. The references in brackets [*x*] are to the principal paragraphs in my report of the cases from where my conclusions are drawn.

The main considerations

89. The main considerations are the effect of the proposed development on the character and appearance of the landscape, including the South Downs National Park, and on the living environment of nearby residents; and, whether the undisputed benefits of the project would be significantly and demonstrably outweighed by any identified harmful impacts.

Planning Policy

90. Policy DC 8 of the Horsham District Local Core Strategy General Development Control Policies is the key policy relating to renewable energy schemes (including solar). The explicit consideration of landscape character, wildlife, areas of historic significance or amenity value effectively embraces Policies CP 1, CP 2, CP 3, DC 1, DC 2, DC 5, DC 6, DC 9, DC 10 and DC 13. [*16, 17*]
91. However, Policy DC 8 does not make any provision for a balance to be struck between identifiable harm arising from, and the acknowledged benefits associated with, renewable energy development as set out in the National Planning Policy Framework and its call to approve renewable energy developments if their impacts are (or can be made) acceptable.
92. Paragraph 14 of the Framework, in its presumption in favour of sustainable development, confirms that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (or specific policies in the Framework indicate development should be restricted). [*20*]
93. Planning Practice Guidance explains, amongst other things, that the need for renewable energy does not automatically override environmental protections; and protecting local amenity is an important consideration which should be given proper weight in planning decisions. [*71*]

Landscape character

94. The key characteristics of the locality include a tranquil rural landscape made up of gently undulating countryside; small - moderate sized fields, typically with well-defined hedgerow boundaries; and a notable presence of trees, reinforced by blocks of woodland and linear shelter belts. There are instances where field boundaries have been lost or diminished, and the immediate locality contains a number of large, modern, farm buildings. [*39 - 44, 64, 65*]
95. The appeal proposal would not have any material impact on the fabric or tranquillity of the landscape and new hedgerow planting would reinforce its structure. However, the regimented strings of solar arrays and related development would be uncharacteristic 'man-made' elements which would result in a very marked change to the character of the site itself. Nonetheless, when considering the totality of the Landscape Character Areas within which the site is located, and from which it is visible, these would remain largely unaffected. [*45, 66*]

96. In terms of the Land Management Guidelines for the two relevant character areas, the proposal would, for the life-time of the development, be in conflict with the aim of conserving and enhancing the undeveloped character and pastoral qualities of the landscape; but, the effects would be reversible. Moreover, with appropriate mitigation, it would meet the objective of ensuring minimum impact on views from the Downs and, with the exception of local views, it would appear integrated within the landscape. The planting, reinforcement and management of hedgerows would be consistent with the guidelines. *[41, 65, 66]*

The appearance of the landscape

97. The appeal site is immersed within an attractive, but undesignated, rural landscape. There is very little semblance of built development from the public footpath along the western boundary of the site and the parkland-like quality of the site is seen to flow seamlessly into its backdrop of the South Downs National Park to the south-east (Photo Locations 1A and 1B). A similar, but more dramatic, impression is gained from the immediate continuation of the footpath to the north of the site, and the bridleway in the vicinity of Upper Northover Farm (Photo Location 4) where the backdrop Downs exerts a more striking presence. *[40, 47, 48, 64, 67]*
98. In each instance the open outward aspect draws the eye and forms a key element of a much wider landscape. The proposed development would, by its scale and nature, appear highly intrusive within this attractive rural setting. Whilst new hedgerow planting could offer substantial screening within a short period of time, the effect would be to denigrate the ambience of the public footpath as the experience of the wider open countryside would be lost by the looming presence of a new hedgerow boundary and the funnelling effect on its route. *[37, 69]*
99. Moving on to the bridleway to the north-east of the site, with particular reference to the stretch between Heron Farm and the group of buildings associated with Ashurst Place Farm, the existing track-side hedgerow provides an ineffective screen and there are clear views of the appeal site set against a panoramic backdrop of the Downs. The site, in its existing form, makes a substantial contribution to the rural character of the locality and, as a consequence, the presence of the proposed solar farm, in the mid-ground and central to the aspect, would be readily apparent and highly intrusive even after the implementation of the proposed landscaping works. *[48, 67, 68]*
100. Moreover, although it is said that, in views from the north, only the rear of the arrays would be visible, and they would be seen against a backdrop of topography, this would not lessen the impacts in any perceptible manner. On the contrary, a succession of framework supports, as opposed to the more consistent smooth lines of the panels themselves, would offer no visual advantage. *[47]*
101. Indeed, with the number of strings proposed and the, often subtle, variation in the way the land slopes away from the viewer, the structures would take on an irregular, staggered, appearance and appear uneasy on the eye. Even if ground preparation were to achieve a smoother land profile, a more even stepped outline would not resolve the alien and uncompromising form of the arrays and the related utilitarian structures within the site. *[9, 10, 54, 68 - 70]*

102. From further afield, along the Downs Link (Photo Locations 9 and 10), the appeal site is substantially shielded from view by a combination of topography and Wyckham Wood in the foreground. With the added effect of distance (in excess of one kilometre), any limited views of the proposed installation would not be unduly damaging to the outlook from, and the enjoyment of, this bridleway. *[50, 52, 67]*
103. Continuing into Henfield, the viewpoint at Southview Terrace provides an elevated outlook with the appeal site being more-or-less central to the view; and, from this point, established and proposed landscape features would provide very limited mitigation. Although the proposed solar farm would sit within an extensive swathe of countryside, it would, nonetheless, appear as a very noticeable, uncharacteristic, element in the landscape. *[5]*
104. Moving on to the South Downs National Park, the panoramic viewpoint at Devil's Dyke is some 7.5 kilometres from the appeal site and, due to a combination of distance and the intricacy and fabric of the landscape, the site was not identifiable. *[6, 11]*
105. The first tangible recognition of part of the appeal site occurs in the vicinity of a Tumulus on the approach to Edburton Hill (5.5 kilometres from the site). It comprises a small component in the landscape with views filtered by topography and vegetation with woodland and hedgerows adding a dark tone to the landscape. From this distance it would be difficult to make out the individual components of the proposed development, and, as a seemingly dark mass, it would be readily absorbed without any material harm to this view.
106. The next clear view towards the site occurs to the west of the radio station at Truleigh Hill (5.0 kilometres); but its presence in the landscape is very limited due to the higher ground immediately to the south-east of the site and good boundary hedgerows. Again, the degree to which parts of the development would be visible would be slight and of very limited effect given the manner in which they would merge into their surroundings.
107. Continuing along the South Downs Way, beyond the youth hostel and the bridleway to Tottington Mount, the route provides views in the direction of the appeal site at a distance of 4.5 kilometres. The site as a whole is not evident due to foreground topography, woodland and hedgerows. Views are limited to small mid-ground shards of countryside, condensed as the route falls to lower ground, set within mature surrounds. The proposed development would be neither obvious nor intrusive.
108. Returning to the bridleway close to the youth hostel and its sweeping passage to and beyond Tottington Mount (3.9 kilometres), it is at this point where the site has a more marked, progressive, presence in the landscape, albeit as a small component in a much wider panoramic vista (Photo Location 12). It is of limited duration, dissipating as the route drops down the north facing slope of the Downs. *[51]*
109. Nonetheless, over a short distance, an extensive part of the site is visible as its foreground topography appears to flatten and vegetation is more sporadic in nature. However, the proposed solar farm would sit within a mature landscape setting; views from this greater elevation would be compressed; and the additional planting sought by the local planning authority, and conceded if

necessary by the appellant, would add beneficial sub-division and framework to the development and minimise its impact from this part of the National Park. [53, 54, 78]

110. Finally, from Chanctonbury Ring Fort, along the South Downs Way, to the south-west of the site (4.7 kilometres), the appeal site is not readily apparent due to foreground woodland and hedgerows and, at worst, any views of the proposed development would be heavily filtered and of no material consequence. [7, 51, 66]

Living conditions

111. Heron Farm has a wide panoramic view from its rear facing windows and garden and whilst the appeal site is offset to the south-west, a significant part of the project would be visible in the mid-ground view. Although the development would materially change the outlook from the property and diminish the enjoyment of the garden, the proposal, despite its scale and proximity, would not be so overwhelming or oppressive as to render the dwelling an unacceptable place in which to live. [6, 67, 84]
112. Ashurst Place Farm has a direct aspect towards the site from its rear facing rooms. However, the combination of distance, framing and partial screening by trees would ensure that the intrusive and uncharacteristic nature of the proposed development would not cross the threshold of creating unacceptable living conditions. [6, 48, 67, 84]

Other material considerations

113. Despite locally expressed concerns about flooding, technical assessment and formal consultation with the relevant body confirms that there would be no net increase in surface water run-off from the site; and no development would take place in the areas of potential flood risk. The Flood Risk and Drainage Assessment submitted with the application includes recommended mitigation measures. [26, 74, 80]
114. There are no unresolved matters in relation to access to the site; and there are no relevant considerations relating to heritage or archaeological interests; or in relation to biodiversity and ecology. Although there is an expressed preference for the use of brownfield land for solar generation, there is no suggestion of any significant availability in the District. [28, 31, 55, 73, 75, 80]
115. Whilst the Council expresses concern about the appellant's failure to demonstrate that a smaller scheme would be unviable, the proposal falls to be considered on merit having particular regard to paragraph 98 of the National Planning Policy Framework and its confirmation that *'local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and approve the application if its impacts are (or can be made) acceptable'*. [76]
116. It is said that Huddleston Farm runs on the edge of viability most years and that a stable source of income would underpin the future of the farm and the employment which it provides. However, the claim is not quantified in any meaningful way and no material weight attaches. [20, 55 – 57]

117. Although there is nothing to suggest that the offer of a 'community benefit package' would not materialise, the components offered do not have any formal status or guarantee in the absence of a concluded planning obligation. However, none of the elements offered would fulfil the statutory tests for obligations set out in the Community Infrastructure Levy Regulations 2010 and the policy tests in the National Planning Policy Framework. This point is acknowledged by the appellant. As such they are of no materiality to the determination of the appeal. *[35, 36, 79]*
118. Whilst there are a limited number of local objections to the proposed development, the project has gained significant support through the medium of Steyning 10:10. Such community support is a material consideration; but the request for a condition to be imposed on any grant of permission to secure the package of benefits for the local community would not meet the tests governing the imposition of conditions which should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise; and reasonable in all other respects. *[25, 35, 59, 61, 79, 81 – 87]*

Conditions

119. The conditions sought by the Council, in the event of the appeal being allowed, are set out in Annex A to this report.
120. Condition 1 specifies the standard time period in which the development is to be commenced. Site restoration is a legitimate objective but condition 2, in its requirement for a scheme to be submitted within twelve months of the expiry of the permission does not cater for earlier redundancy and, in any event, an approved scheme should be in place before the end of the permission to provide for timely removal and site restoration.
121. The approved list of drawings, in condition 3, needs to be amended to include drawing 2369-PL-03 Rev 1. Condition 4, requiring materials to be used to accord with the details approved, is unnecessary in light of condition 3; and in any event, condition 6 requires the submission of other specified details. Condition 5, and its call for details of the CCTV installations, appears unnecessary given the details provided in Drawing PL-11 REV 01. Details of the proposed access tracks, condition 7, are required to minimise visual impact. *[4]*
122. The reference, in condition 8, relating to compliance with the guidelines and measures set out in the International Commission on Non-Ionising Radiation Protection, does not have explicit justification; and clarification sought from the local planning authority has met with no response.
123. Condition 9, limiting the noise emitted from the plant/machinery to be installed, is not supported by any technical justification; and, given the nature of the equipment and the distance to the nearest residential property, there is nothing to suggest that such a condition is necessary.
124. The installation of a wheel-cleaning facility for construction vehicles, to prevent the carriage of mud and debris on to Horsham Road (B2135), appears unwarranted as a stand-alone condition as the site is located in the order of one kilometre from the road. The control of working hours, condition 11, appears unduly onerous, given the distance between the site and residential

properties and the dominance of farming activities in the locality. However, a restriction on external lighting, condition 12, is warranted to protect the dark night sky.

125. In view of the above shortfalls, and the omission of other necessary conditions, a schedule of redrafted conditions is listed at Annex B to this report, for consideration in the event of the Secretary of State deciding to allow the appeal.
126. These relate to the standard time period within which to implement the permission (Condition 1). The approved drawings are itemised for the avoidance of doubt and in the interests of proper planning (Condition 2). Arrangements for decommissioning are defined (Condition 3).
127. Given the scale of the project, an agreed Construction and Traffic Management Plan is required to supplement the framework plan provided for guidance at application stage (Condition 4). This condition can include details of any permanent access tracks within the site; wheel washing facilities if shown to be necessary; and timing of the works. *[75]*
128. A Landscape and Ecological Management Plan is also an important precondition as confirmed in the Ecological Survey accompanying the application (Condition 5). Similarly, in the absence of any proposed mechanism to secure landscape mitigation, a landscaping scheme is required (Condition 6). In this regard, the Landscape and Environmental Management Plan submitted with the application sets out a number of fundamental principles which should be incorporated into the condition. *[32, 73]*
129. Outstanding details of buildings and structures can also be secured (Condition 7); and external lighting precluded other than in accordance with a scheme previously agreed in writing by the local planning authority (Condition 8). In addition, the mitigation measures set out in the Flood Risk and Drainage Assessment should be adopted (Condition 10). *[74]*
130. The comments of the parties on the redrafted and additional conditions have not been sought.

The planning balance

131. The proposal would contribute towards the Government's long-standing and well-documented commitment to renewable energy generation in the drive towards tackling climate change and reducing the UK's emissions of carbon dioxide. The generation of 16MW of green energy per year (approximately 3,400 average households), saving some 9,000 tonnes of carbon dioxide per annum would contribute to national and local targets. *[18 – 23]*
132. It is also relevant to note that the effects of the development would be reversible; there would be some biodiversity benefits; and the site would have a viable grid connection. These factors, together, are a matter of significant weight. *[29, 30, 32 - 34, 55, 60, 62, 76, 80]*
133. In terms of harm, there would undoubtedly be change to the character of the landscape which would be severe, even with proposed mitigation, within and immediately adjacent to the site. In this regard, the introduction of a visibly new 'feature' and its uncharacteristic regimentation would appear markedly out of place in the receiving landscape.

134. The impact of the proposal on the countryside would be dramatic, most notably from the public footpath within the site and from its continuation to the north and from part of the bridleway between Ashurst Place Farm and Heron Farm. Sweeping views across a parkland-like landscape and their seamless integration with the rising slopes of the South Downs National Park would be lost to an unforgiving utilitarian aspect which, even with the degree of landscaping sought by the Council, the development would remain as highly intrusive and damaging to the rural scene. Moreover, the new screening between the footpath within the site and the installation would rob users of a tangible appreciation of the wider open countryside and severely impair the enjoyment of the route.
135. The proposed development would have little impact on views from the Downs Way; but it would stand out in a broad rural vista when viewed from the identified location in Henfield.
136. The National Planning Policy Framework requires great weight to be given to conserving landscape and scenic beauty in National Parks (and other specified designated areas) which have the highest status of protection in relation to landscape and scenic beauty. Planning Practice Guidance on renewable and low carbon energy confirms that proposals close to National Parks will need careful consideration where there could be an adverse impact on the protected area.
137. The proposed development would be some distance from the National Park boundary and the primary adverse impact on the outlook of the designated area would be experienced from, and within the vicinity of, Tottington Mount where the solar farm would be visible over a relatively short distance. However, with appropriate mitigation within the site, the effects on the outlook from the designated area would be very limited.
138. Overall, in my judgement, the very local impacts of the proposal, most notably from the public footpath within the site, its continuation to the north and the related bridleway would be so pervasive to significantly and demonstrably outweigh the very significant benefits of the proposal. The minor impact on the outlook from the National Park is an additional, but not determinative, factor. *[42, 63, 80]*
139. On this basis the proposal would be at odds with Policy DC 8 of the Horsham District Local Core Strategy General Development Control Policies (and the related policies which it embraces). However, the policy does not call for a balance to be struck between any identified harm and the benefits arising from a specific project. Whilst planning decisions are to be taken in accordance with the development plan, unless material considerations indicate otherwise, the application of those benefits must be admitted into the planning balance; and having done so, direct inconsistency remains. Whilst compliance with a number of policies has been noted (for example DC 40), the proposal would be in conflict with the development plan when read as a whole. *[16, 17, 24 – 28, 63, 73]*
140. Additionally, the development proposed would be at variance with paragraph 98 of the National Planning Policy Framework, having particular regard to one of the core planning principles, in paragraph 17, to *'take account of the different roles and character of different areas recognising the intrinsic character and*

beauty of the countryside'. In this instance the impacts of the proposal would, on balance, be very damaging to the rural landscape; and those effects could not be made acceptable.

141. The achievement of radical reductions in greenhouse gas emissions is central to the economic, social and environmental dimensions of sustainable development. Nonetheless, the aim of mitigating and adapting to climate change would be far outweighed by the environmental damage and the proposal would fall short of meeting the three, mutually dependent, roles of sustainable development.
142. In terms of Planning Practice Guidance, and the Written Ministerial Statement, although the proposal involves greenfield land there is no demonstrable available alternative and lower quality land has been chosen in preference to higher quality land. The development would allow for continued agricultural use and biodiversity improvements could be delivered. None of these factors outweighs the harm which I have described. [3, 15, 33]

Recommendation

143. I recommend that the appeal be dismissed. However, in the event that the Secretary of State disagrees and allows the appeal, I recommend that the conditions at Annex B be applied.

David MH Rose

Inspector

Annex A: List of conditions supplied by the local planning authority

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The use of the equipment hereby permitted for generating electricity shall be discontinued on or before 30 years after the first use of the solar PV panels, in accordance with a scheme of work submitted to and approved in writing by the local planning authority within twelve months of the expiry of this permission. The scheme shall include:

- i method statement for decommissioning and dismantling all equipment on site;
- ii details of any items to be retained on site;
- iii method statement for restoring the land to agriculture; method statement for the appropriate disposal/recycling of redundant equipment/structures;
- iv timescales for decommissioning removal and reinstatement of the land;
- v provision for review of the scheme as necessary.

The scheme of work shall be implemented as approved, in accordance with a timescale to be approved, unless otherwise agreed in writing in advance by the local planning authority.

Reason: To ensure the satisfactory restoration of the site back to agriculture in accordance with policies DC1, DC2 and DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

3. The photovoltaic array hereby approved shall be installed in accordance with the following plans and sections:

Ref. 2369-PL-04 REV 03 submitted on 24 March 2014
Ref. 2369-PL-02 REV 01 submitted on 7 January 2014
Ref. 2369-PL-03-A REV 01 submitted on 24 March 2014
Ref. 2369-PL-03-1 REV 01 submitted on 24 March 2014
Ref. 2369-PL-03-2 REV 01 submitted on 24 March 2014
Ref. 2369-PL-03-3 REV 01 submitted on 24 March 2014
Ref. PL-05-25 REV 01 submitted on 7 January 2014
Ref. PL-10-AB1 REV 01 submitted on 7 January 2014
Ref. PL-10-AB2 REV 01 submitted on 7 January 2014
Ref. PL-07 REV 01 submitted on 7 January 2014
Ref. PL-08 REV 01 submitted on 7 January 2014
Ref. PL11 REV 01 submitted on 7 January 2014
Ref. 0000-PL12 REV 01 submitted on 7 January 2014

Reason: To control the development in detail in the interests of amenity and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

4. The materials to be used in the development hereby permitted shall strictly accord with those indicated on the approved details associated with the application.

Reason: To enable the local planning authority to control the development in detail in the interests of amenity and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

5. Prior to commencement of development details relating to CCTV equipment and associated structures, including details of their design, appearance, colour and specifications shall be submitted to and approved by the local planning authority in writing. The approved details shall be implemented and so maintained for as long as the development remains in existence unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the character and amenities of the locality and in accordance with policies DC1, DC2 and DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

6. Prior to commencement of development details relating to the colour of the GRP building, storage container and inverter housing shall be submitted to and approved by the local planning authority in writing. The approved details shall be implemented and so maintained for as long as the development remains in existence unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the character and amenities of the locality and in accordance with policies DC1, DC2 and DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

7. Prior to commencement of development details relating to access tracks shall be submitted to and approved by the local planning authority in writing. The approved details shall be implemented and so maintained for as long as the development remains in existence unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the character and amenities of the locality and in accordance with policies DC1, DC2 and DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

8. The development hereby approved shall comply with the guidelines and measures set out in the International Commission in [sic] Non-Ionising Radiation Protection.

Reason: To ensure that no unacceptable risks are caused to human health in accordance with policy CP2 of the Horsham District Local Development Framework: Core Strategy (2007).

9. The rating level of noise emitted from the plant and/or any machinery hereby approved shall be at least 5 dB below the existing background noise level. The noise levels shall be determined at the nearest residential property. The measurements and assessment shall be made in accordance with British Standard BS4142 'Method for rating industrial noise affecting mixed residential and industrial areas'.

Reason: To safeguard the amenities of the occupiers of nearby residential properties and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

10. No work shall be carried out on the site unless and until an effective vehicle wheel-cleaning facility has been installed in accordance with details approved by the local planning authority in writing and such facility shall be retained in working order and operated throughout the period of work on the site to ensure that vehicles do not leave the site carrying earth and mud on their wheels in a quantity which causes a nuisance, hazard or visual intrusion from material deposited on the road system in the locality principally the B1235 [sic].

Reason: In the interests of road safety and in accordance with policy DC40 of the Horsham District Local Development Framework: General Development Control Policies (2007).

11. No work for the implementation of the development hereby permitted shall be undertaken on the site except between the hours of 08.00 and 18.00 on Mondays to Fridays inclusive and 08.00 hours and 13.00 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the amenities of nearby residents in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

12. No external lighting or floodlighting shall be installed without the prior written approval of the local planning authority. Any that is installed with the permission of the local planning authority shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and in accordance with policy DC9 of the Horsham District Local Development Framework: General Development Control Policies (2007).

Annex B: Schedule of conditions recommended by the Inspector in the event of the Secretary of State deciding to allow the appeal

Schedule of Planning Conditions (1 – 9)

Implementation

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Approved plans

- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed below: -

Proposed site access and point of connection: Drawing No. 2369-PL-02 REV 01

Proposed site sections: Drawing No. 2369-PL-03 REV 01

Proposed site sections: Drawing No. 2369-PL-03-A REV 01

Proposed site sections: Drawing No. 2369-PL-03-1 REV 01

Proposed site sections: Drawing No. 2369-PL-03-2 REV 01

Proposed site sections: Drawing No. 2369-PL-03-3 REV 01

Proposed site layout: Drawing No. 2369-PL-04 REV 03

25° solar array modules & collection box details: Drawing No. PL-05-25 REV 01

GRP housing: DNO Drawing No. PL-07 REV 01

Typical site fence and maintenance access details: Drawing No. PL-08 REV 01

Typical inverter housing details 20ft container: Drawing No. PL-10-AB1 REV 01

Typical inverter housing details 40ft container: Drawing No. PL-10-AB2 REV 01

Site CCTV and motion detector: Drawing No. PL-11 REV 01

Typical site storage container detail: Drawing No. 0000-PL12 REV 01

Temporary use and site restoration

- 3) The use of the land hereby permitted for generating electricity shall be discontinued on or before 30 years from the first operational use of the solar photovoltaic panels in accordance with a scheme of works, and a timetable for implementation, which shall previously have been submitted to and approved in writing by the local planning authority. The scheme of works shall be implemented in accordance with the approved details and shall include: -
 - (a) a method statement for decommissioning and dismantling all equipment on site;
 - (b) details of any items to be retained on site;
 - (c) a method statement for restoring the land to agriculture;
 - (d) timescales for decommissioning, removal and reinstatement of the land;
 - (e) a method statement for the appropriate disposal / recycling of redundant equipment and structures; and
 - (f) provision for the review of the scheme as necessary.

Construction and Traffic Management Plan

- 4) No works or development shall take place until a Construction and Traffic Management Plan has been submitted to and approved, in writing, by the local planning authority. The approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate of, but not necessarily be restricted to, the following matters: -
- (a) the anticipated number, frequency and types of vehicles used during construction;
 - (b) the method of access and routing of vehicles during construction;
 - (c) the parking of vehicles by site operatives and visitors;
 - (d) the loading and unloading of plant, materials and waste;
 - (e) the storage of plant and materials used in the construction of the development;
 - (f) the details of the surfacing treatment of the temporary and permanent access tracks and any temporary parking compound;
 - (g) the provision and use of wheel washing facilities and other works required to mitigate the impact of construction on the public highway;
 - (h) measures to control the emission of dust and dirt during construction;
 - (i) the preclusion of burning of materials or waste on the site;
 - (j) lighting for construction and security;
 - (k) the timing of construction activity;
 - (l) measures to safeguard the lawful use of the Public Right Of Way within the site; and
 - (m) details of public engagement both prior to and during construction works.

Ecology

- 5) No development shall commence until a Landscape and Ecological Management Plan has been submitted to, and approved in writing by, the local planning authority. The Landscape and Ecological Management Plan shall correspond with the principles, recommendations and enhancements set out in the Ecological Survey by Michael Woods Associates (October 2013) and shall provide for details as appropriate of, but not necessarily be restricted to, the following matters: -
- (a) the protection of habitats and notable species during construction of the solar array;
 - (b) the creation of new habitats and features for wildlife and landscape screening in the construction phase;
 - (c) the management of retained and newly created habitats during the operation of the solar array;
 - (d) management prescription for adequate protection of species during operation;
 - (e) future monitoring of the site to assess management success;
 - (f) arrangements for the availability of an appropriately qualified and licensed ecologist during the construction phase;

- (g) a lighting strategy in the event that artificial lighting of the site is required during the construction phase; and
- (h) measures for ecological enhancements.

The Landscape and Ecological Management Plan shall be implemented as approved and adhered to throughout the entire construction period.

Landscaping

- 6) No works or development shall commence before a detailed Landscaping Management and Mitigation Strategy/Plan, which shall include a plant and seeding list, has been submitted to and approved in writing by the local planning authority. The Strategy/Plan shall include the principles set out in Drawing No BRS.4394 (Landscape Mitigation), as supplemented by Drawing No 2369-PL-04 REV 03 (Proposed site layout) and the following: - a mature native species hedgerow on the eastern side of the public footpath which runs within the western boundary of the site; the restoration of the historic field pattern in the centre of the site; and the provision of woodland and woodland edge planting on the northern and north-eastern boundaries and in the centre of the site.

The approved Strategy/Plan, which shall incorporate the Landscape and Environmental Management Plan (submitted with the application), shall be implemented in the first available planting season following commencement of the development in strict accordance with the approved details. Any plants or species which within a period of five years from the time of 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 by the local planning authority.

Buildings and structures

- 7) No development shall commence until details relating to the colour of the GRP housing, storage container and inverter housings has been submitted to and approved in writing by the local planning authority in writing. The development shall be implemented in accordance with the approved details and retained as such for the duration of the development.

Lighting

- 8) No external lighting or floodlighting shall be installed other than in accordance with a scheme previously submitted to and approved in writing by the local planning authority. The lighting shall thereafter be operated in accordance with the approved scheme.

Flood risk and drainage

- 9) The development hereby approved shall be carried out in accordance with the mitigation measures set out in paragraph 5.3 of Flood Risk and Drainage Assessment (December 2013).

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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). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

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.