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## Appeal Decision

Inquiry held on 22-24 and 28-30 October 2025

Site visits made on 22, 28 and 30 October 2025.

**by Susan Heywood BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3<sup>rd</sup> December 2025

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**Appeal Ref: APP/B3030/W/25/3364181**

**Land north of Main Road, Kelham, Nottinghamshire, NG23 5QY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Assured Asset Solar 2 Ltd against the decision of Newark & Sherwood District Council.
  - The application Ref is 23/01837/FULM.
  - The development is a proposed ground mounted photo voltaic solar farm and battery energy storage system with associated equipment, infrastructure, grid connection and ancillary work.
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### Decision

1. The appeal is allowed and planning permission is granted for the proposed ground mounted photo voltaic solar farm and battery energy storage system with associated equipment, infrastructure, grid connection and ancillary work on land north of Main Road, Kelham, NG23 5QY in accordance with the terms of the application, Ref 23/01837/FULM, subject to the conditions in the attached schedule.

### Preliminary Matters

2. Following the refusal of planning permission and prior to the inquiry, the appellants amended the Landscape Masterplan and Site Layout drawings. The amendments included additional hedgerow planting along the western boundary of the site and consequent reduction in the number of solar panels; the extension of the proposed permissive bridleway to Broadgate Lane; various amendments to the key; clarifying the alignment of the existing public right of way off site; annotating an existing orchard area to be retained; identifying the location of proposed interpretive boards on the appeal site.
3. These amendments were subject to public consultation and I have had regard to the responses. The Council are satisfied that the amended plans can be taken into account in coming to my decision and I agree that no prejudice would arise from me doing so.

### Main Issues

4. The main issues in this case are the effect of the development on:
  - the character and appearance of the landscape having regard to the cumulative impact of the development in the context of other renewable energy development in the locality;

- the setting of designated heritage assets;
- the use of best and most versatile agricultural land (BMV);
- whether other considerations, including the need for the development, outweigh any identified harms.

## Reasons

### *Landscape character and appearance*

5. The site comprises three large fields set in a predominantly flat landscape with slight undulation in the north eastern field. The fields are bounded by hedgerows, hedgerow trees, and copses of woodland. A footpath crosses the site from north east to south west, splitting into two to run north west and south west along the boundaries of the site.
6. The site lies within the Trent Washlands Policy Zone 11 (TWPZ11) Landscape Character Area as identified in the Newark and Sherwood Landscape Character Assessment Supplementary Planning Document (SPD). Characteristic features identified in the SPD and relevant to the site are the flat, large scale intensive arable landscape containing hedgerows, some of which are sparse.
7. Fragmentation of the landscape by busy roads is noted in the SPD and, in the vicinity of the site, the busy A617 to the south and east brings notable noise to the site and surroundings. The National Grid power station to the south of Averham and the pylons crossing the landscape, including part of the site to the west, are cited as detracting features, although I note that these are mostly outside of the TWPZ11 area.
8. In isolation, the Council do not consider that the development would cause unacceptable landscape harm. However, my attention has been drawn to other solar and battery energy storage schemes (BESS) that have been granted planning permission or are proposed in the surrounding area.
9. Within the TWPZ11 Character Area, two BESS schemes, Staythorpe North<sup>1</sup> and South<sup>2</sup>, have been granted planning permission. In addition, the Great North Road Solar and Biodiversity Park (the GNR scheme) is currently at the consultation stage of its Development Consent Order process. The Council argue that cumulative harm to the character and appearance of the area would be caused by the proposed development in the context of these other developments. The Council's landscape witness confirmed that the primary concern was the cumulative impact of the development with the GNR scheme.
10. The latest Landscape Masterplan for the GNR scheme indicates that a BESS and substation area would be located to the west of the appeal site, separated by a copse of trees and grassland belt. Other areas of land within TWPZ11 are identified for the GNR scheme, some of which are currently identified for solar panels and other areas identified for green infrastructure. The GNR scheme is at an early stage in its consent process and at this stage I can only have regard to what may be granted in the future in assessing the appeal before me.

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<sup>1</sup> 23/00317/FULM

<sup>2</sup> 22/01840/FULM

11. If that scheme is approved, the cumulative effect of the appeal development, the GNR BESS and the BESS developments at Staythorpe North and South would result in a cluster of energy infrastructure developments located in the south west of the TWPZ11 area. Cumulatively, these developments would alter the character of this specific part of the Landscape Character Area from primarily agricultural land to land containing a mixture of agriculture and energy infrastructure. Indeed, this would be the effect even without the GNR BESS scheme.
12. Nevertheless, the existing field boundary structure on the site and in the wider area would remain, as would hedgerow boundaries, which would be reinforced along the site boundaries. Furthermore, large parts of the Character Area would remain unchanged by these energy infrastructure developments. Agricultural land would remain between the appeal site and the Staythorpe North BESS and between Staythorpe North and Staythorpe South. The GNR BESS would be contiguous with the appeal site to the west, but it would be separated by woodland and grassland in the current GNR proposals. Agricultural land would also remain to the west and north west of the site.
13. It would be the case that, around Averham, Staythorpe and Kelham, energy infrastructure would be viewed more often when passing through the landscape. But the clustering of these developments would leave large parts of the landscape within the Character Area unaffected. Any impact on the wider Character Area by the wider GNR scheme will be for the examiners of that development to consider.
14. There is a dispute regarding whether the appellants should have considered the BESS North site as forming part of the baseline. Regardless of this, in my assessment I have not treated it as such, noting that construction has not yet begun.
15. Two other solar farms have also recently been approved to the south of Caunton, north west of the appeal site<sup>3</sup>. The Council do not claim any negative cumulative impact from those two schemes together with the appeal development, but they note that these schemes will be experienced sequentially on moving through the landscape.
16. I acknowledge this to be the case for drivers and recreational users travelling along the surrounding roads and footpaths; the latter have the higher sensitivity to such changes in the landscape. However, there would remain a large amount of rural, agricultural land between the appeal site and these two solar farms. Any drivers or users of public footpaths passing both areas would travel through these rural areas which are currently unaffected by solar or other energy development. Again, any future impact of the GNR scheme on these areas will be for the examiners of that development to consider.
17. Having regard to the matters before me, I consider that the appeal scheme, together with the identified developments, would change the landscape character of this part of the Landscape Character Area. Nevertheless, the above mitigating factors lead me to conclude that the impact on landscape character would not be significant and would be experienced in a localised area only.
18. Arguments were made that the green lane created by hedges alongside the footpath crossing the site, and the maintenance of hedges at 3 metres in height,

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<sup>3</sup> 22/00975/FULM & 22/00976/FULM

would not be characteristic of the area. However, I saw a variety of hedge heights within and on the boundaries of the site and surrounding area, some of which were as tall as 3 metres. Whilst I did not see any green lanes, I note that many of the solar developments recently approved have proposed the similar treatment of footpaths with hedges on either side. Furthermore, it is not unusual in the countryside generally to see footpaths with hedges on both sides.

19. I turn now to consider the visual impact of the development. Although the Council have only raised concerns regarding the cumulative impact, local residents, Nottinghamshire Area Ramblers and the Parish Council are concerned about the visual impact of the development itself and so I will also address these matters.
20. The predominantly flat landscape of the site and its immediate surroundings, and the existing boundary hedgerows, would limit views of the development from the majority of places on the surrounding roads and from Kelham and Averham, the closest settlements.
21. However, open views across fields, towards hedges, copses of trees and to higher land to the west are currently possible from various locations within and close to the site. This includes from the footpath within the site; from parts of Broadgate Lane, where the site is visible above or through the roadside hedge; and from the front windows and gardens of some of the residential properties along the lane.
22. Views across the site and surroundings also include views of the power station which is a prominent feature on the skyline from within the site, and the numerous pylons crossing the landscape and clustering around the substation and power station. These detract from the visual quality of the site and immediate surroundings. I note that these open views exist because of a loss of historic field boundaries. Nevertheless, they are views which have existed for some considerable time and are now valued by local residents and footpath users despite the visual detractors mentioned above.
23. The loss of these open views from the footpath and replacement with views of the development in the short to medium term, and in the longer term the enclosure by tall hedges, would diminish the character and attractiveness of the footpath, as a route through open countryside. Visual intrusion and loss of open views would also be experienced from parts of Broadgate Lane and from some of the residential properties along that lane.
24. The site boundary does not extend to the southern boundary of Broadgate Lane. Consequently, there would be a strip of open land and the roadside hedgerow between the lane and the development. This offset would reduce the visual impact of the development when viewed from these locations.
25. A landscape bund is also proposed to part of the northern site boundary between the strip of open land and the solar panels and fencing. The bund would include planting of shrubbery of between 4-6 metres in height once matured. A condition is suggested to secure appropriate landscaping as part of the Biodiversity, Landscape and Ecological Management Plan. The bund and planting would soften and screen the development from views from Broadgate Lane and the houses facing the site in the longer term. Nonetheless, in the short term, before the planting matures, the bund would be seen as an engineered landform which would block the currently open views from these locations.

26. The loss of the open views would persist over time, due to the bund and the increased amount and height of hedgerows. However, the visual intrusion caused by the solar panels, fencing and other infrastructure would be greater in earlier years until the proposed landscaping matures.
27. I do not underestimate the impact of the loss of open views to those residents who currently look over the fields. However, these are private views. The development would not cause actual harm to the living conditions of the residents of those properties. As such, impact on the amenity of those living opposite the site would not warrant dismissing the appeal and I cannot have regard to any potential reduction in property values, which is not a planning matter.
28. From the A617 the development would be visible through the proposed site access, from the entrance to an access track opposite School Farm to the south and from the layby to the south west of the site. Those experiencing these views would primarily be vehicle users who tend to be travelling at speed along this road.
29. Whilst the Trent Valley Way long distance footpath runs along the A617 to the east of the site, users of this route would currently experience the open views across the site in the context of the busy and noisy traffic environment along the road. This detracts from the benefits of such open views to their walk in this location.
30. From most locations along the A617, the development would either be seen in the context of agricultural fields in the foreground or screened by hedgerows which are proposed to be supplemented and allowed to grow to a minimum of 3 metres in height. These factors, together with the busy road context within which the views would be experienced, would lessen the harmful visual impact of the proposal from these locations.
31. The proposed BESS would be of greater height than the solar panels and would not be entirely screened by the proposed 3 metre high hedges. However, the BESS would be restricted to a small part of the south western boundary of the site. Furthermore, a landscaped bund is proposed to the east of the structures. The BESS would therefore have a negligible visual impact in the context of the wider site and surrounding landscape.
32. I acknowledge that views of the development through the hedgerows would be greater in the winter months. However, even during these months the existing and proposed screening would filter views and therefore reduce the visual impacts of the development once it has had time to mature.
33. Turning to cumulative views, the proposed development would be seen in combination with the proposed GNR BESS (if consent is granted for that scheme) when viewed from the layby on the A617 to the south west of the site (Viewpoint 10). The view would be experienced by drivers of vehicles temporarily stopping in the layby. These viewers would have a low susceptibility to changes in the cumulative views from this location as the purpose of their journey will primarily be travelling along the A617, rather than for recreational purposes.
34. Whilst the development, together with the GNR BESS, would result in a large part of the land in that view being covered by energy infrastructure, the flat landscape would limit views of the site in depth. Furthermore, the two developments would be seen in the context of the agricultural land in the foreground and screening would be provided by the boundary hedge, existing copse of trees and proposed planting.



- The two developments would also be separated by the proposed copse of trees and grassland on the GNR BESS site. The in-combination views from this location would therefore cause negligible visual harm.
35. From Viewpoint 6, in-combination views would be limited by the existing boundary hedge to the north of the proposed GNR BESS site. This would effectively screen views of the GNR BESS from this location. Together with the flat landscape and distance at which any views would be gained, no visual harm from in-combination views would be experienced from this location.
36. Turning to sequential views, the visual intrusion and loss of open views from the footpath is set out above. When the footpath splits it would travel alongside the GNR BESS site towards the north west. Here the existing tall, dense hedge on the southern boundary of the footpath would limit views of the GNR BESS for a large part of this route towards Kelham Woods. Towards the south west, the footpath would run along what is currently proposed as woodland within the GNR BESS before running south away from the GNR BESS boundary. The impact of these sequential views would not therefore be significant.
37. The other identified developments, together with the appeal development, would cause some visually sequential impact, in that recreational users or drivers may see energy infrastructure more often when travelling through the countryside. But the developments would not be so close together, neither would they be so numerous or extensive that the sequential visual impacts would cause significant harm.
38. There are elevated views of the site and the wider Trent Washlands landscape from Kelham Hills and Micklebarrow Hill to the west and south west. However, the appeal site only forms a small part of these views and would not be the most prominent feature in the surroundings. At the distances involved, where it is visible, the development would be seen as a darker surface sitting within the surrounding agricultural landscape. It would not cause significant visual harm from these locations either alone or in combination with other energy developments.
39. The development would be for a time-limited period of 40 years after which the land would be returned to agriculture. Whilst this is a significant length of time, the landscape and visual harm would not be permanent. The landscaping would remain and as such the increased enclosure of views would persist beyond the life of the development.
40. Bringing together the above, in combination with other developments the proposal would cause harm to the landscape character of the area due to the change in the nature of the land use in this part of the Landscape Character Area. The development would also result in the loss of open views and visual intrusion within the site and from parts of the immediate surroundings and it would reduce the attractiveness of the footpath as it crosses the site. The visual harm would be greatest close to the site and would diminish with distance. I conclude that, overall, the development would cause moderate harm to the character and appearance of the site and immediate surroundings.
41. The Council argues that the development would be contrary to Spatial Policy 3 of the Newark and Sherwood Amended Core Strategy (2019) (ACS), and Policy DM8 of the Allocations and Development Management Development Plan Document (2013) (DPD) which both seek to protect the countryside and its character.

However, the Council has recently adopted a Solar Energy SPD in June 2025. This acknowledges that these ACS and DPD policies do not specifically address renewable energy schemes, and the authority refers to ACS Core Policy 10 'Climate Change' and DPD Policy DM4 'Renewable and Low Carbon Energy Generation' as being the most directly relevant policies for assessing solar developments. Both Core Policy 10 and DM4 support renewable energy generation where the benefits outweigh harm to landscape character. I therefore intend to assess the development against these relevant policies rather than the more generalised criteria in Spatial Policy 3 and DM8. I shall return to Core Policy 10 and DM4 in the overall balance below.

42. ACS Core Policy 9 relates to sustainable design. It is aimed at ensuring development is resource efficient, uses sustainable energy and is sustainable in its location, design and construction. The development would conflict with this policy in so far as it relates to the protection and enhancement of the natural environment.
43. Policy DM5 of the DPD requires the local distinctiveness of the landscape and character of built form to be reflected in (amongst other matters) the scale, layout, and design of new developments. Regard should be had to the Landscape Character Assessment SPD. In causing harm to landscape character, the proposal would conflict with this part of the policy. The parties agree that the development would comply with part 5 of the policy relating to the protection and enhancement of natural features and connectivity of green infrastructure. The development would not conflict with part 3 of the policy relating to the impact on the amenity of neighbouring development.

### *Heritage*

44. There are no heritage assets on the appeal site. However, there are listed buildings, conservation areas and non-designated heritage assets (NDHAs) in the surrounding area which the Council claims would be impacted by the development.
45. There was a dispute regarding the level of significance given to the assets by the appellants who had used a scale of High, Medium and Low compared to the Council's Very High, High, Medium and Low. However, the appellants' witness agreed that the Council's scale could be used, and this did not affect her assessment of significance which put Grade I listed buildings at the very top of her scale. I have proceeded on this basis.

### Kelham Hall

46. Kelham Hall is a Grade I listed country house and as such is of the highest significance<sup>4</sup>. It was designed by George Gilbert Scott in the Gothic revival style and built between 1859 and 1861<sup>5</sup>. Built of red brick with ashlar stone, it has an elaborate design incorporating projecting gables and towers, balustrades with finials at roof level, tall chimney stacks and a spire to the north-east tower. Its roofscape is prominent and distinctive when viewed from various locations in the surrounding area giving the building a landmark quality. The building was designed for the Manners-Sutton family, major landowners in the area, following a fire which largely destroyed the previous hall.

<sup>4</sup> In line with the National Planning Policy Framework at paragraph 213(b).

<sup>5</sup> Both parties say 1862 but I have used the information from the listing description.

47. The significance of the building is agreed to be derived from its evidential and aesthetic value and its historic connection to the Sutton and Manners-Sutton family who also owned a number of other properties nearby.
48. The Hall was designed to look out over its formal gardens towards the River Trent to the east and towards the south and its Park and Gardens. This is a NDHA which I return to consider later. It is agreed that the primary setting of the building includes the Park and Garden.
49. The bank of trees along the Hall's western boundary with the A617, which were part of the grounds of the former hall, were retained in Gilbert Scott's design. Notwithstanding these trees, the Hall's distinctive roofline can be glimpsed from the footpath within the appeal site, where the tops of chimney stacks, one of the towers and parts of the roof are visible.
50. I accept that not every view will contribute to the significance of the building. However, the experience of the asset from the footpath helps the viewer to understand the rural context of the building at the time it was constructed. It also allows the landmark quality and aesthetic significance of the roofline to be appreciated. The view from the footpath is therefore one which makes a contribution to its significance, albeit to a minor degree.
51. Due to the proximity of the viewer on the footpath to the solar panels, the angle of the view and the proposed landscaping, it is likely that views of the Hall would be lost from the footpath. This would cause a low level of less than substantial harm to the significance of the building through development within its setting.

#### Church of St Michael

52. This is a Grade I listed building dating from at least the 12<sup>th</sup> century and as such is of the highest significance. The significance of the asset lies in its evidential, archaeological, architectural and historic value. Its links to the Sutton family provide historical associations which also form part of its significance.
53. The setting of the church includes the churchyard, the approach through woodland to the west, and the River Trent to the east. Views are gained out from the churchyard towards open agricultural land to the north and the roofline of Kelham Hall can also be glimpsed from here. This land forms part of the rural setting of the church adding to its historic significance as a small rural church serving a surrounding agricultural settlement.
54. The appeal site lies on the opposite side of the A617 and, due to the tall, dense hedge around the churchyard, it cannot be seen from within the church grounds. There are views towards the appeal site from outside the churchyard, beyond the gap in the hedge to the north. From here, the site forms part of the wider rural landscape within which the church sits and to that extent it would form a small part of its setting adding to its significance.
55. However, the traffic movement and noise from the A617 to a large degree form a barrier between the church and the appeal site and this part of its wider setting. As a result, the appeal site and its surroundings contribute only in a small way to the rural setting and historic significance of the church.
56. Due to intervening structures and vegetation (existing and proposed) and the low-level nature of the development, the proposed solar farm would not be visible from



the church grounds, nor when viewed from the gap in the hedge to the north. The open, rural nature of the land surrounding the church would therefore be retained and the development would not harm the setting of the church in outward views.

57. A view of the church tower is gained from the footpath crossing the site through a gap in the hedgerow. This is not a prominent view and the power station to the south of the church is much more dominant in that view. Nevertheless, the view does allow the church to be experienced in its rural setting. The loss of that rural view would harm the significance of the church to a very minor degree. The proposal would therefore cause a negligible level of less than substantial harm to the significance of the church through development within its setting.

#### Averham Park House

58. This is a Grade II\* listed former hunting lodge, and as such is of the highest significance. It was built 1718 – 1720, on behalf of Robert Sutton. It is located on higher land some distance to the south west of the appeal site. The building is set within Averham Park unregistered Park and Garden (a NDHA) and the former hunting grounds for the lodge. I return to consider this NDHA later.
59. The significance of the building lies in its historic connections to the Sutton family, the aesthetic value of the building itself and its elevated location providing views over the Trent Valley.
60. I understand that the house probably had a viewing platform at roof level allowing views over the park and land to the east, including the appeal site. It is agreed that the appeal site and surrounding land is likely to be visible from the upper floors of the building and would have been visible from the roof terrace. In so far as this allows an understanding of the rural, agricultural setting of the building, it contributes a small amount to the significance of the building.
61. Due to the distance and intervening vegetation, views of the proposed development from the house would be limited. At this distance the proposal would be viewed as a change in the surface colour of the field which would hardly be discernible. It would not create an intrusive form of development, nor would it add to the built-up nature of the surroundings. Any views from the house would remain of an open, predominantly agricultural landscape. The proposed development would not therefore harm the setting or significance of the building.
62. I have had regard to other energy developments which may be visible in the views towards the east from the house, but this would not alter my conclusion on the lack of harm to the setting and significance of the building.

#### Averham Conservation Area

63. This conservation area lies to the south east of the appeal site on the opposite side of the A617. Both parties agree that it is of high significance. It is agreed to be a historic rural and agricultural village including some medieval structural elements centred around the crossroads of Staythorpe Road, Church Lane and Pinfold Lane. Its significance includes its historic settlement pattern with modest rural cottages and farm buildings which contribute to its aesthetic and historic value as an isolated rural settlement. Its links to the Sutton family also provide historic value adding to its significance.

64. It is agreed that the conservation area is best experienced from within, rather than having significant views inwards or outwards from the surrounding landscape. However, its setting includes the rural land surrounding the village to the north, including the appeal site. This rural land enables an understanding of the conservation area as an isolated rural settlement.
65. The A617 acts as a barrier between the conservation area and rural land beyond the road and detracts from the isolated rural character of the village. This has reduced, but not completely eroded, the contribution that the land to the west of the road, including the appeal site, makes to the setting of the conservation area.
66. Due to existing and proposed vegetation and the low-level nature of the development, the proposed solar farm would not be prominent from within the conservation area. The proposed communication masts would be visible, and it may also be possible to view the transformers above the height of the surrounding hedges. However, these would form a minor part of the view of the surrounding countryside from the conservation area and would not lead to the loss of the open rural character. The development would not therefore harm the setting of the conservation area in outward views.
67. As set out above, the development would result in the loss of the glimpsed view of the church tower from within the site. This view acts as a way-finder for the village. Its loss would detract from the ability to appreciate the location of Averham village in its rural surroundings. The proposal would therefore result in a negligible level of less than substantial harm to the setting of the Averham Conservation Area.

#### Kelham Conservation Area

68. The Kelham Conservation Area comprises the historic core of the village, Kelham Hall and part of its Park and Gardens, land opposite the Hall on the west side of the A617 encompassing Kelham Country Manor House (an asset I return to later), agricultural land to the south of the Manor House and part of Broadgate Lane. Both parties agree it is of high significance.
69. Its significance includes its evidential and historic value derived from its historic routes, including the bridge over the River Trent, and historic buildings including Kelham Hall and estate houses. Broadgate Lane includes surviving parts of Lady Sutton's Kitchen Garden, including gates, walls and a glasshouse. Historic links with the Sutton and Manners-Sutton family also form part of the conservation area's significance.
70. The setting of the conservation area includes the surrounding open countryside, including the appeal site, which adds to the understanding and significance of the village as a rural settlement.
71. As set out earlier in this decision, the proposal would result in the loss of the open, rural setting of that part of Broadgate Lane within the conservation area. It would also harm the setting through loss of open character and visual intrusion of solar infrastructure on the approach to the village from the south where the southernmost field is visible through gaps in the boundary hedge. The predominantly flat landscape and existing and proposed landscaping are mitigating factors which lead me to conclude that the proposal would cause a low level of less than substantial harm to the setting of the Kelham Conservation Area.

Kelham Hall unregistered Park and Garden NDHA

72. The park encompasses Kelham Hall and land to the south between the A617 and River Trent. Designed by William Andrews Nesfield in approximately 1860 it includes formal elements, such as the parterre close to the house, and more informal woodland areas incorporating woodland walks. Historic images show that the southern part of the park had an informal parkland character with individual tree planting.
73. The park includes a ha-ha to the south of the Hall and woodland to the west and south of the Hall. The ha-ha and woodland separate the northern part of the park from land to the south. The northern extent of the park is included in the Kelham Conservation Area. The southern part of the park has changed ownership and is now used as agricultural fields and an airstrip. Apart from the 'tail-end' of the woodland to the western side of the park, this land no longer retains its former parkland character.
74. The significance of the park is derived from its links to a prominent designer and its aesthetic and architectural interest. It also has historic interest due to its links to the Sutton and Manners-Sutton family and Kelham Hall. Both parties agree that it has a medium significance.
75. A small part of the southernmost field on the appeal site lies opposite the southern extent of the park, separated by the A617. The site extends further to the south lying opposite the agricultural field to the south of the park.
76. From the northern part of the park, views of the development would be screened by woodland within the park and by hedges and trees on the boundaries of the A617. Together with the flat topography, this would ensure that minimal, if any, views of the development would be gained from the northern part of the park. Whilst the masts within the BESS area may be visible from this location, existing views incorporate the pylons running across the landscape. Therefore, the additional masts in this location would not be prominent in the view.
77. Any views from within the southern part of the park (which is not currently publicly accessible) would have the busy A617 in the foreground, would be screened by roadside vegetation and would be seen in the context of the pylons crossing the landscape towards the power station to the south. The development would not therefore be a significant feature from this part of the park.
78. When travelling along the A617 the experience of the park would include experience of the solar farm opposite. The proposed development would alter the open, agricultural setting of the southernmost extent of the park. To this extent, the development would detract from views towards and across the park. However, there is substantial screening on the boundary of the A617 which limits views towards the park on the eastern side of the road. Harm to the significance of the Park and Gardens from the loss of the open setting and the juxtaposition of the development would therefore be negligible.

Averham Park unregistered Park and Garden NDHA

79. In the 17<sup>th</sup> century, this land was the former hunting ground for Averham Park House. There is evidence that in the 18<sup>th</sup> century the park was formally laid out

with woodland and geometric rides. However, the land was subsequently enclosed as agricultural fields which is its current character.

80. Its significance is derived from its group value with Averham Park House and South Farm and from its historic links with the Sutton and Manners-Sutton family. Both parties agree that due to poor survival of its features it is of low significance.
81. Unlike Averham Park House, where views across the appeal site may be possible from the upper floor, I agree with the opinion of the Council's Conservation Officer that views of the site from the park are largely blocked by the intervening ridge and woodland in the middle ground.
82. In any views which may be possible, at the distance involved the proposal would be viewed as a change in the surface colour of the field which would hardly be discernible. It would not create an intrusive form of development, nor would it add to the built-up nature of the surroundings. Any views from the park would remain of an open, predominantly agricultural landscape. The proposed development would not therefore harm the setting or significance of the park.

#### Kelham Country House NDHA<sup>6</sup>

83. This is a red brick Edwardian property with Flemish gables located opposite the grounds of Kelham Hall on the west side of the A617. It was built for the Manners-Sutton family who fell into financial difficulties following the construction of Kelham Hall.
84. The significance of the building derives from its historic links to the family and the group value with the Hall, although there is limited intervisibility between the two buildings. Its architectural and aesthetic value also add to its significance. As much of its historic and architectural interest remains intact, I agree with the Council that the significance of the building is medium.
85. The setting of the building includes its grounds to the south west and east with its sweeping driveway towards the A617. It also incorporates the substantial tree belt to its west between the building and the appeal site. The agricultural fields to the south of the grounds, which include the proposed solar farm, form part of the rural setting of the building. This land is largely screened from the grounds of the house by a hedge and trees on its southern boundary. However, there are some views through gaps in that boundary hedge through which the development would be viewed in the distance.
86. This view would be across open agricultural land and grassland which would be retained to the immediate south of the grounds. Furthermore, only a narrow extent of the solar farm would be visible as much of it would be screened from the house and grounds due to the woodland belt to its west and south west. In addition, the view already incorporates views of the pylons travelling across the landscape and clustering around the power station to the south east. The impact of views of the solar farm from the house and grounds would be mitigated by these factors.
87. Nevertheless, to the extent that the development would remove some of the open, agricultural land to the south of the building, it would cause a negligible level of harm to the significance of the building through development within its setting.

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<sup>6</sup> Although not on a local list, the Council claims that this building is a NDHA. The appellants are content to accept this and therefore, for the purposes of this appeal, I have treated it as a NDHA.

### Heritage conclusion

88. For the reasons set out above, I have found less than substantial harm at the following level to the following heritage assets:
- Grade I listed Kelham Hall - low
  - Grade I listed Church of St Michael - negligible
  - Averham Conservation Area – negligible
  - Kelham Conservation Area – low
  - Kelham Hall unregistered Park and Garden NDHA – negligible
  - Kelham Country House NDHA – negligible.
89. Whilst in each case the harm would be long term in its duration, it would be reversed following decommissioning. The harm would not therefore be permanent.
90. ACS Core Policy 14 relates to the Historic Environment. It sets out that conservation and enhancement of the character, appearance and setting of heritage assets should be in line with national policy. DPD Policy DM9 seeks to protect the setting of Listed Buildings and Conservation Areas. Whilst the policy does not set out the approach of balancing harm against public benefits set out in the National Planning Policy Framework (the Framework), it does refer to proposals being in accordance with the requirements of Core Policy 14 where this test is set out. Policy DM4 also requires a balancing of harm to heritage assets against the benefits of renewable energy development.
91. The Framework sets out that in determining applications, regard should be had to the desirability of sustaining and enhancing the significance of heritage assets. Any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification. Where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
92. I will therefore go on to assess other matters in this appeal and the benefits of the scheme before turning to the heritage and overall balance.

### *Agricultural land*

93. It is agreed that 92% of the appeal site (60.3 hectares) is best and most versatile agricultural land (BMV), 55% of it being Grade 2 and 37% Grade 3a. For proposals which result in a loss of BMV DPD Policy DM8 requires a sequential approach to site selection and that environmental or community benefits outweigh the land loss. I have set out above that the policy does not specifically relate to energy developments and as such I give greater weight to Policy DM4 which does not refer to BMV as one of its policy considerations. Notwithstanding this, the Council is satisfied that the proposal would comply with Policy DM8.
94. Paragraph 187(b) of the Framework requires recognition of the economic and other benefits of BMV. Footnote 65 states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality. The Planning Policy Guidance



restates this and sets out the need to consider whether the proposal allows for continued agricultural use.

95. The National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3) seeks to avoid the use of BMV where possible, but states that land use should not be a predominating factor in determining the suitability of site location. Although this relates to Nationally Significant Infrastructure proposals, I have had regard to it as a material consideration in this appeal given the size of the proposal before me.
96. The Written Ministerial Statement 'Solar and protecting our Food Security and Best and Most Versatile Land' (15 May 2024) reiterates national policy and sets out the need to balance energy security and use of BMV. The Government's Solar Roadmap<sup>7</sup> (June 2025) supports shared use of land for solar and agriculture (such as grazing) and says that increased solar does not pose a threat to food security. It goes on to say that the biggest risk to food security and the natural environment is the climate and nature crisis. Neither national nor local policy therefore prevents the use of BMV land for other purposes.
97. There is no dispute that the appellants' site selection assessment demonstrates that there is no unconstrained land within the local area, in proximity to a grid connection, with a lower level of BMV land than the appeal site. Thus, the Council accepts that it is necessary to use BMV agricultural land as proposed and there is no evidence to the contrary.
98. The appellants' uncontested evidence demonstrates that there would be no loss of soil quality in the long term as a result of the development and only minimal permanent loss of land, such as that beneath the access tracks. A Soil Management Plan, secured by a condition, would ensure that long term loss of soil quality would be restricted to those permanently removed or covered areas.
99. The proposals include the intention to graze sheep on the land beneath the panels, and a planning condition would secure this. Whilst I accept that the land would not be used to its maximum potential for food production for the period of the development, some agricultural use of the land could therefore continue. Moreover, this reduction in productivity would not be permanent and the resource would not be lost to future generations. The planning regime does not control the use of agricultural land, and even without the development it would be possible for the land to be used for non-food crops, as the appellants state it has been, for grazing, or even be left fallow.
100. Having regard to the above factors, I conclude that the use of BMV land does not weigh against the granting of planning permission and there is no conflict with local or national policy in this regard.

### *Benefits of the development*

#### Need

101. The Climate Change Act 2008, as amended, sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100% to reach net zero by 2050. There have since been a number of Government policy statements and commitments produced in relation to energy and climate change. These include the Net Zero Strategy: Build Back Greener (2021), which sets an ambition for the

<sup>7</sup> Solar Roadmap: United Kingdom Powered by Solar June 2025

UK to be powered entirely by clean energy by 2035, subject to security of supply. This is against the background of a predicted 40-60% increase in demand.

102. More recently, the Clean Power 2030 Action Plan (December 2024) sets out the need to protect consumers from volatile energy prices and ensure secure and clean energy generation in the UK. It seeks to significantly increase installed capacity of both solar and battery storage facilities at a 'very significant scale and pace'<sup>8</sup>. The Solar Roadmap restates the urgent need and sets out a strategy for achieving the significant increase in solar deployment needed in order to ensure affordable, secure energy as well as tackling the climate crisis.
103. There is therefore an urgent need for solar and BESS schemes to come forward to meet the challenges of the climate crisis, providing energy security and protection of consumers from volatile energy costs.
104. The solar farm would have the capacity to produce 49.9MW of renewable energy, sufficient to power approximately 12,600 homes per year and offset approximately 13,400 tonnes of CO2 every year. I acknowledge that this would not be as large a generator of renewable energy as the proposed GNR facility. Nonetheless, it would still be a significant contributor. The Framework states that even small-scale projects (which I would not describe this proposal) provide a valuable contribution to cutting greenhouse gas emissions.
105. The BESS would have a capacity to store 50MW of surplus energy. Whilst this is a separate facility, not linked to the solar farm, it would enable energy produced in the network at times of high generation to be stored and released back to the grid during periods of low generation and peak demand. Such facilities are necessary to even out the peaks and troughs of renewable energy generation and support the transition to clean power. I heard that a grid connection offer has been secured for the development at the Staythorpe power station with a target for connection in 2028 which is when the benefits of the scheme would start to be realised.
106. Both ACS Core Policy 10 and DPD Policy DM4 support renewable energy generation subject to there being no overriding adverse impacts. At national level, paragraph 161 of the Framework sets out that the planning system should support the transition to net zero by 2050 and support renewable and low carbon energy and associated infrastructure. Significant weight must be given to the benefits associated with renewable and low carbon energy generation and the contribution to a net zero future. NPS for Energy, EN-1, and EN-3 both provide a positive framework for renewable energy and BESS schemes.
107. Having regard to the above and in agreement with both parties, I give substantial weight to the need for and benefits of the scheme in relation to climate change and energy security<sup>9</sup> and significant weight to the co-location and provision of BESS.

#### Other benefits

108. The proposed development would include landscaping, habitat creation, enhancement and management in accordance with the Biodiversity, Landscape and Ecological Management Plan (BLEMP), to include protection of an existing

<sup>8</sup> Page 35

<sup>9</sup> The appellants' planning witness had given substantial weight to these benefits separately in his proof of evidence. However, during cross examination and in response to my questions he made an (unqualified) concession that he reverted to the agreement in the Statement of Common Ground that these matters should attract weight as a single benefit. In accordance with this agreement I have treated them as a single benefit in this appeal.

orchid area to the north east of the site. The updated biodiversity net gain assessment demonstrates an increase of 82.04% for habitat value and 41.70% increase in hedgerow value as a result of landscape and ecological measures. A condition requiring submission of the BLEMP and the S106 Agreement (which I return to later) would secure implementation, management and maintenance of the landscape and biodiversity net gain measures. I see the biodiversity and landscape benefits as being interlinked and I attach significant weight to these benefits of the scheme.

109. The proposal would include the formalisation and extension of a permissive footpath / bridleway to run around the perimeter of the site giving access onto Broadgate Lane and the A617. This would provide an alternative route for walkers using the Trent Valley Way along the A617, which would be less affected by traffic and noise. This attracts moderate weight in favour of the development.
110. The majority of employment generation would be during the construction phase when up to 50 staff would be employed. This attracts limited weight in favour of the appeal. I have no specific information regarding the benefits of the scheme to the diversification of the farm and therefore I add no additional weight in the overall balance to this matter.

#### *Other matters*

111. Concerns have been raised about the potential for fire and associated thermal runaway, including fumes and groundwater contamination from such an event. The development includes a battery fire safety statement. This sets out the safety measures to be implemented to prevent and manage such risks. The safety system would involve monitoring, mitigation and protection and include measures such as early warning systems, disconnection of power, fire detection and suppression systems. Each battery, transformer and inverter module would also be separated from the adjacent module by a concrete firewall to reduce the risk of any fire spreading.
112. Outside of the planning system, regulatory regimes and UK guidance exist to ensure safety of facilities and there is no reason to consider that these would not operate effectively. Nottinghamshire Fire and Rescue Service did not object to the scheme but indicated that further information would be required if the scheme is allowed. A condition is imposed to ensure that a Fire Safety Management Plan is submitted prior to commissioning of the development.
113. These issues were considered in detail at the inquiry into the Staythorpe BESS scheme<sup>10</sup>. The Inspector in that appeal found that, subject to a condition requiring an updated fire safety management plan, the scheme, for a much larger BESS facility than is proposed in this appeal, would be acceptable in respect of fire safety. There is no reason for me to come to a different conclusion in this case.
114. The development would use the existing, but upgraded, field access from the A617. The existing boundary hedge is to be translocated to enable adequate sight lines to be provided. Once operational, traffic to and from the site would be minimal and would mainly be for maintenance vehicles generally visiting once a month<sup>11</sup>. The main traffic to and from the site would therefore take place during the proposed

<sup>10</sup> Appeal reference: APP/B3030/W/23/3334043

<sup>11</sup> Transport Statement

construction period. The highway authority and National Highways raise no objections to the scheme on the grounds of safety or road capacity. A condition is imposed requiring the submission of a Construction and Traffic Management Plan. This will control matters such as hours of construction and deliveries, control of noise and dust, parking of vehicles, wheel washing and traffic management signage during the construction period. On this basis, I am satisfied that there would be no unacceptable highway impacts from the proposed development.

115. The majority of the site is in Flood Zone 1, with a low probability of flooding. Small parts of the site are in Flood Zones 2 and 3 but none of the solar infrastructure would be located in these areas. The Lead Local Flood Authority and Environment Agency raise no objections to the proposal on flood risk grounds either on or off site. The Council's Committee Report considered the issue of flood risk in some detail and concluded that there would be no flooding or drainage concerns. There is no evidence to lead me to a different conclusion. A condition is imposed to ensure submission and implementation of the surface water drainage proposals.
116. The impact of reflection from the panels has been raised given the proximity to the A617. However, the flat landscape and boundary treatment lead me to conclude that glint or glare would not be a significant issue. I note that neither the highway authority nor National Highways raised concerns in this regard.
117. Concerns have been raised regarding the environmental and social impacts of production, transportation and disposal of solar panels. The Solar Roadmap sets out the Government's position and actions being taken regarding modern slavery in supply chains, the efficient use of primary resources such as critical minerals, and recycling. Whilst action regarding these matters is evolving, there is no evidence to demonstrate that these factors should weigh against the proposal.
118. Attention has been drawn to other dismissed appeals. However, those decisions will have been dependent upon the specific matters before the Inspectors in those cases. They are not directly comparable to the case before me and are not therefore determinative in this appeal.

#### *S106 obligation*

119. An obligation is submitted which requires the owner and/or the developer to implement, maintain and monitor the biodiversity net gain measures as discussed in paragraph 107 above until decommissioning. The Council is to be provided with a statement of compliance with the BLEMP and allowed access for inspection. An Ecological Monitoring Report is to be provided by the owner and/or developer at set intervals, including prior to decommissioning, and the Council will have the right to request measures to ensure compliance with the BLEMP. A monitoring fee is also to be paid to the Council. These requirements are necessary to ensure that the landscaping and planting on site remains effective throughout the life of the development. The S106 complies with the statutory tests in Regulation 122 of the CIL Regulations.

#### *Overall balance*

120. NPS EN-1 advises that *"having regard to siting, operational and other relevant constraints the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate."* It further states that a judgement is to be made as to *"whether any adverse impact on the landscape*

*would be so damaging that it is not offset by the benefits (including need) of the project”* having regard also to whether the project is temporary and/or capable of being reversed.

121. Therefore, national policy recognises that large scale solar farms may result in some landscape and visual harm. However, it adopts a positive approach to such developments indicating that they can be approved where the impacts are, or can be made, acceptable and where the harm is outweighed by the benefits.
122. The Solar Roadmap also notes that is important to strike a balance between local considerations, including impacts on the local environment, and securing a clean, secure energy system for the future.
123. I have concluded that, through a combination of topography, existing screening and landscape mitigation, the adverse effect on landscape character and visual impact would be localised and moderate other than in very close proximity to the site. Furthermore, as the existing and proposed planting matures, adverse visual effects would be further reduced in most locations.
124. Turning to heritage matters, Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special regard to the desirability of preserving listed buildings, their settings, and any architectural features they may possess. Section 72 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
125. Whether a proposal results in substantial or less than substantial harm to the significance of a heritage asset, the Framework, paragraph 212, requires the decision maker to attach great weight to its conservation and the more important the asset, the greater the weight should be. Paragraph 215 says that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm is to be weighed against the public benefits of the proposal.
126. The proposal would result in less than substantial harm to the heritage significance of a number of heritage assets as set out earlier in this decision. Two of the assets are of the highest significance being Grade I listed. The harm caused by the development would be at the low and negligible end of the less than substantial scale. Nonetheless, I have given considerable importance and weight to the conservation of these heritage assets and more so to the Grade I listed buildings.
127. However, I consider the substantial public benefits I attach to the provision of renewable energy, the significant benefits from the provision of BESS, together with the additional benefits from the biodiversity net gain, the provision of the permissive footpath / bridleway, and the employment benefits, clearly and decisively outweigh the less than substantial harm to the heritage assets involved.
128. In relation to the NDHAs, paragraph 216 of the Framework requires a balanced judgement taking into account the scale of harm and significance of the assets. In this case I have found that negligible harm would be caused to two assets of medium significance. Having regard to the weight I give to the benefits of the scheme, the harm caused to these NDHAs is also outweighed.
129. I have concluded that no harm is to be weighed into the balance from the use of BMV land in this case and there is no conflict with relevant policies in this regard.



130. The development would conflict with Core Policy 9 in so far as it relates to the protection and enhancement of the natural environment. In terms of DM5, it would conflict in part and comply in part. In terms of Core Policy 14 and Policy DM9, the heritage balance set out above results in no conflict to those policies. As set out above, the most important development plan policies for consideration of this appeal are Core Policy 10 and DM4. These support renewable energy generation where the benefits are not outweighed by harm, including to landscape character and heritage assets. Having regard to my conclusions above, the proposal would comply with these policies.
131. Nevertheless, as I have identified some conflict with the development plan policies, the proposal would not comply with the development plan as a whole. However, the benefits in favour of the development outweigh the harms I have identified and justifies allowing the appeal other than in accordance with the development plan in this instance.

### **Conditions**

132. In addition to the standard conditions, conditions are attached to ensure the temporary nature of the development in accordance with the application details and submission of a decommissioning and restoration scheme to ensure satisfactory impacts on the environment.
133. Conditions are imposed requiring retention of the public footpath and implementation of the permissive bridleway in the interests of public amenity. In the interests of highway safety, conditions are required relating to a Construction and Traffic Management Plan as referred to above, provision of access, sight lines, prevention of vehicular access onto Broadgate Lane and survey and rectification of any damage to the highway as a result of construction activities.
134. In the interests of biodiversity and local / visual amenity, the following conditions are required: details of lighting, the submission of a Construction Environmental Management Plan, submission of the BLEMP to ensure implementation and maintenance of the proposed landscaping and biodiversity proposals as discussed above, details of the hard landscaping details, tree pit design, underground systems, sustainable urban drainage integration, implementation of measures in the Ecology Appraisal and Bird Report, details required of the proposed substation compound and telecommunications tower. Also to protect local amenity a noise condition is imposed.
135. A Soil Management Plan is needed to ensure satisfactory management and restoration of the soil resource. An updated Fire Safety Management Plan is required as discussed above. To ensure satisfactory drainage a surface water drainage scheme is required. Conditions are attached requiring archaeological investigation, because of the potential for the site to contain archaeological remains.

### **Conclusion**

136. For the reasons set out above, I conclude that the appeal should be allowed.

*S Heywood*

INSPECTOR

## Annex 1 – Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The planning permission hereby granted shall be for a temporary period only, to expire 40 years after the date of the first export of electricity from the development (the “Commission Date”). Written confirmation of the Commission Date shall be provided to the Local Planning Authority within one month after the event.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:

HC1002 05 01 REV 0 Site Location Plan  
HC1002 05 2A REV 1 Planning Application Boundary Sheet 2 of 2  
HC1002 05 2B REV 1 Planning Application Boundary Sheet 1 of 2  
HC1002 02 16 REV 3 Landscape Masterplan received on 11 July 2025  
HC1002 05 03 REV 5 Site Layout received 18 July 2025  
HC1002 05 04 REV 1 Substation and BESS Compound Arrangement  
HC1002 05 05 REV 0 PV Panel Details (including details of different mounting systems, to be read in conjunction with Drawing no. HC1002/5/28 Archaeology Mitigation Areas)  
HC1002 05 06 REV 0 DNO Substation Details  
HC1002 05 07 REV 0 Solar and BESS Switchgear Cabins Details  
HC1002 05 08 REV 0 Solar Transformer Station Details  
HC1002 05 09 REV 0 Spares Cabin Details  
HC1002 05 10 REV 0 Container Details  
HC1002 05 11 REV 0 Battery Modules Details  
HC1002 05 12 REV 0 Battery Transformer Inverter Details  
HC1002 05 13 REV 0 Battery Firewall Details  
HC1002 05 14 REV 1 Point of Connection Details  
HC1002 05 15 REV 0 Sections Through Substations and BESS Compound  
HC1002 05 17 REV 0 Fencing and Security Details  
HC1002 05 18 REV 0 Internal Access Track Construction Detail  
HC1002 05 19 REV 0 Palisade Fencing Details  
HC1002 05 20 REV 0 Deer Mesh Fencing Details  
HC1002 05 21 REV 0 Acoustic Fence Details  
HC1002 05 22 REV 0 Paladin Fence Details  
HC1002 05 23 REV 1 Site Access Details received 21 June 2024  
HC1002 05 24 REV 0 Site Access Construction Details  
HC1002 05 25 REV 2 Temporary Site Set Down Area Details  
HC1002 05 26 REV 0 Indicative 132kv Substation Details  
HC1002 05 27 REV 3 Public Access Details received 18 July 2025  
HC1002 05 28 REV 3 Archaeology Mitigation Areas received 18 July 2025  
HC1002 05 29 REV 2 Translocated Hedgerow Plan received 21 June 2024  
WPD EPEX GA 01 Rev B Communication Mast Proposed Elevation  
WPD EPEX GA 03 Rev B Communication Mast Proposed Compound Plan  
153626- 002 Rev D (splays)

- 4) No later than 12 months before the expiration of a period of 40 years from the Commission Date, or within 6 months of a cessation of operation of the

facility for a period of 12 months a Scheme of Decommissioning and Restoration shall be submitted to and agreed in writing by the Local Planning Authority. The Scheme shall include:

- a) The management and timings of any works;
- b) A Traffic Management Plan to address likely traffic impact issues during the decommissioning period;
- c) An Environmental Management Plan to include measures to be taken to protect wildlife and habitats during and after the decommissioning period;
- d) A De-construction Environmental Management Plan to include measures to protect the amenities of neighbouring residents during the decommissioning period as well as site restoration measures.

All equipment and associated works shall be removed within 12 months of the Scheme being approved by the Local Planning Authority and in accordance with the Scheme.

- 5) Prior to any obstruction to Kelham Footpath No. 4 and Averham Footpath No.6, a scheme for the permissive bridleway shown on Site Layout Plan (Drawing Reference HC1002/5/03 r5) shall first be submitted to and approved in writing by the Local Planning Authority (the "Permissive Footpath Scheme"). The Permissive Footpath Scheme shall include details of the construction and laying out of the bridleway along the agreed route, and the arrangements for maintaining the bridleway during the life of the development. The permissive bridleway shall be installed and made available for public use prior to any obstruction to Kelham Footpath No. 4 and Averham Footpath No. 6, and shall be retained for the lifetime of the development, in accordance with the approved Permissive Footpath Scheme.
- 6) Prior to commencement of development a full Construction and Traffic Management Plan (based largely on the submitted outline) shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt that shall include, but not be limited to:
  - a) a scheme to control noise and dust/dirt and mitigation measures;
  - b) except for emergency works, construction works on the site shall not take place outside 08:00 to 18:00 hours Mondays to Fridays and 08:00 to 13:00 hours on Saturdays and no time at all on Sundays or Bank Holidays;
  - c) that deliveries shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed for abnormal load deliveries;
  - d) the parking of vehicles of site operatives and visitors;
  - e) loading and unloading of plant and materials;
  - f) storage of plant and materials used in constructing the development;
  - g) wheel washing facilities;
  - h) details of the wooden fencing to enclose temporary compound areas;
  - i) a traffic management signage scheme;
  - j) full details of any temporary external lighting;

The approved Construction and Traffic Management Plan shall be fully complied with until the completion of construction on the site.

- 7) Prior to commencement of development a detailed design, including a detailed design of the access gates of the A617 site access (as indicatively shown on drawing number Drawing Reference HC1002 05 23 REV 1 Site Access Details received 21 June 2024) shall be submitted to and approved in writing by the Local Planning Authority. Prior to any other works being carried out on the site, the approved access shall be constructed in accordance with the approved detailed design and thereafter retained for the lifetime of the development.
- 8) The required 2.4m x 160m site access visibility splays, as shown on Drawing number 153626-002 Rev D (Visibility Splays from Proposed Access), shall be provided prior to the A617 access being brought into use, with associated translocation of the existing northern roadside hedge in accordance with the BLEMP approved under condition 16. The splays shall then be kept clear of all obstructions of 0.26m above adjacent carriageway level for the lifetime of the development.
- 9) No development shall commence on site until a condition survey of the existing highway as defined on Drawing 153626-010 - Extent of Condition Survey has been undertaken, and the survey results submitted to and approved in writing by the Local Planning Authority. This survey shall include an assessment of the condition of the existing carriageways, footways and soft verges. A further, second survey shall be undertaken within two months of completion of all construction works at the site and a report submitted to the Local Planning Authority identifying any damage to the highway, attributable to the construction vehicles, with a scheme identifying any proposed repair works and timescales for implementation, to be agreed in writing with the Local Planning Authority. The scheme shall be implemented thereafter as agreed.
- 10) Whilst the existing public footpath (Kelham FP4) shall be retained, there shall be no other pedestrian, nor vehicular access associated with the development into the development site via Broadgate Lane.
- 11) The noise associated with the development hereby approved shall be limited to those specified in paragraph 6.2.3 of the submitted Noise Impact Assessment by NVC Ltd dated 10.10.2023 and all noise mitigation measures detailed in the assessment shall be installed and be operational prior to any use of the site being made for energy generating purposes. All noise mitigation measures shall remain operational and in place for the lifetime of the development.
- 12) Notwithstanding any submitted details hereby approved, prior to the installation of any permanent external lighting to serve the operational use, full details of all external lighting proposed (to include methods to restrict times of illumination, luminance levels, glare potential) shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall be designed to minimise the use of external lighting on the site, prevent light spillage and be directed away from sensitive receptors and high value and boundary habitats, such as woodland. External lighting for the operational phase shall be installed and thereafter maintained in accordance with the approved details for the lifetime of the development.
- 13) Prior to any site clearance, or the commencement of the development, a Soil Management Plan (SMP), having regard to the Institute of Quarrying Good

Practice Guide for Handling Soils in Mineral Working, British Society of Soil Science Guidance Notes, in particular the note titled 'Benefitting from Soil Management in Development and Construction' must be submitted to and approved in writing by the Local Planning Authority. The SMP shall be prepared by a suitably qualified soils and agriculture expert. It shall include:

- a) An assessment of agricultural land and soil resource at the site pre-construction;
- b) An aftercare programme which would enable a satisfactory standard of agricultural after-use;
- c) Details of how the Agricultural Impact Assessment (Jan 2024) informs the Soil Management Plan to maintain agricultural production to the same standard after decommissioning;
- d) The methods by which the applicant intends to restore appropriate affected areas to agricultural use after works, including excavations and restoration, has finished post decommissioning; and
- e) Remediation in the event of compaction (including cultivating, reseeding, draining or irrigating, applying fertiliser, or cutting and grazing the site).

All development and site clearance shall be carried out in accordance with the approved SMP. Before decommissioning commences, the expert should review the SMP and make recommendations as to measures necessary to ensure the land is restored to its original condition at decommissioning, taking into account any updates in statutory or policy requirements.

- 14) Prior to the commencement of the development hereby approved (including demolition, ground works and vegetation clearance) a Construction Environmental Management Plan (CEMP) specifically in respect of Biodiversity and Arboriculture shall be submitted to and approved in writing by the Local Planning Authority. The CEMP for Biodiversity and Arboriculture shall include the following:
- a) A risk assessment of potentially damaging construction activities for biodiversity.
  - b) A scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a Tree Protection Plan (TPP) and details of tree protective measures and fencing to be installed and carried out throughout construction.
  - c) An Arboricultural Method Statement (AMS) detailing the location and installation of services/utilities/drainage and the details of any construction works within the Root Protection Area (RPA) of any trees, including details of no-dig specification areas.
  - d) Identification of "biodiversity protection zones" and tree protection zones.
  - e) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction to both trees and biodiversity.
  - f) The location and timing of sensitive works to avoid harm to biodiversity and retained trees.
  - g) The times during construction when specialist ecologists and Arboricultural supervision by a suitably qualified tree specialist need to be present on site to oversee works.
  - h) Responsible persons and lines of communication.



- i) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- j) Use of protective fences, exclusion barriers and warning signs.
- k) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires.
- l) Details to confirm there shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees.

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

- 15) Prior to the Commission Date, details of the treatment of all areas of the site not included within requirements of Condition 3 and Condition 16 and not covered by buildings/structures shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion of development or the Commission Date, whichever is the sooner. Details shall include location, type and materials to be used for hard landscaping including specifications, where applicable for:
  - a) permeable paving
  - b) tree pit design
  - c) underground modular systems
  - d) sustainable urban drainage integration; and
  - e) use of hard landscaping within tree Root Protection Areas (RPAs).
- 16) Prior to the commencement of any works for construction or development, a Biodiversity, Landscape and Ecological Management Plan (BLEMP) shall be submitted to and be approved in writing by the Local Planning Authority. The content of the BLEMP shall include the following:
  - a) The location and summary description of the existing vegetation, landscape and features to be maintained and/or enhanced, or created;
  - b) A detailed scheme for the translocation of the hedgerow, as identified on Hedge Translocation Plan ref HC1002 05 29 REV, including details of hedgerow maintenance and management;
  - c) The proposed actions to maintain and/or enhance or create the features, and the timing of those proposed actions;
  - d) The proposed management prescriptions for the proposed actions including sheep grazing;
  - e) An annotated plan providing a summary of the elements covered by items a, c, and d;
  - f) Details of the planting and enhancements to be carried out in accordance the approved Landscape Mitigation Plan (Reference HC1002/5/16 r3 - Landscape Masterplan) and with the details contained in the Biodiversity Net Gain Report received 21st June 2024 and updated BNG metric 4.0 received September 2025;
  - g) An annual work schedule covering a 5-year period (with the view that the management proposals would be reviewed every 5 years thereafter over the operational lifetime of the solar array);
  - h) Identification of who will be responsible for implementing the BLEMP;

- i) A schedule for monitoring the implementation and success of the BLEMP, this to include monitoring reports to be submitted to the Local Planning Authority at appropriate intervals.

The approved BLEMP shall be fully implemented within the timescale agreed pursuant to item 'c' of this condition and the measures included within it shall be maintained for the lifetime of the development.

- 17) Prior to the Commission Date, an updated Fire Safety Management Plan detailing the specification of all plant and machinery shall be submitted to and approved by the Local Planning Authority thereafter, the development shall be implemented and operated in accordance with the approved plan.
- 18) No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the Flood Risk Assessment (FRA) and Drainage Strategy prepared by KRS Environmental Limited (October 2023), has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:
  - a) Demonstrate that the development will use Sustainable Drainage Systems throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753 and NPPF Paragraph 182 (or any subsequent replacement).
  - b) Limit the discharge generated by all rainfall events up to the 100 year plus 40% (climate change) critical rainstorm to QBar rates for the developable area.
  - c) Provide detailed design (plans, network details, calculations and supporting summary documentation) in support of any surface water drainage scheme, including details of any attenuation system, the outfall arrangements and any private drainage assets.
  - d) Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods. No surcharge shown in a 1 in 1 year. No flooding shown in a 1 in 30 year. For all exceedance to be contained within the site boundary without flooding properties in a 100 year plus 40% storm.
  - e) Evidence to demonstrate the viability (e.g Condition, Capacity and positive onward connection) of any receiving watercourse to accept and convey all surface water from the site.
  - f) Provide a surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site.
  - g) Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.

The development shall be implemented in full accordance with the approved detailed surface water drainage scheme.

- 19) Archaeology - Part 1  
No development shall take place until an archaeological Mitigation Strategy for the protection of archaeological remains is submitted to and approved in

writing by the Local Planning Authority. The Mitigation Strategy will include appropriate Written Schemes of Investigation for evaluation trenching, open area excavation and provision for other mitigation work as necessary. These Schemes shall include the following:

- a) An assessment of significance and proposed mitigation strategy (i.e., preservation by record, preservation in situ or a mix of these elements);
- b) A methodology and timetable of site investigation and recording;
- c) Provision for site analysis;
- d) Provision for publication and dissemination of analysis and records;
- e) Provision for archive deposition; and
- f) Nomination of a competent person/organisation to undertake the work.

The scheme of archaeological investigation must only be undertaken in accordance with the approved details.

20) Archaeology - Part 2

The archaeological site work must be undertaken only in full accordance with the approved Written Schemes of Investigation. The developer shall notify the Local Planning Authority of the intention to commence at least fourteen days before the start of archaeological work in order to facilitate adequate monitoring arrangements. No variation to the methods and procedures set out in the approved Written Scheme of Investigation shall take place without prior consent of the Local Planning Authority.

21) Archaeology - Part 3

A report of the archaeologist's findings shall be submitted to the Local Planning Authority and the Historic Environment Record Officer at Nottinghamshire County Council within three months of the works hereby given consent being commenced unless otherwise agreed in writing by the Local Planning Authority; and the condition shall not be discharged until the archive of all archaeological work undertaken hitherto has been deposited with the County Museum Service, or another public depository willing to receive it.

22) The development shall be undertaken in accordance with the approved mitigation and enhancement measures and/or works and shall be carried out in accordance with the details contained in the:

- Ecology Appraisal prepared by FPCR Environment and Design Ltd dated September 2023 (Ref: 9511 Rev B)
- Bird Report prepared by FPCR Environment and Design Ltd dated September 2023 (Ref: 9511 Rev D)

together with any subsequently approved details and all features shall be retained in that manner thereafter.

23) Notwithstanding the approved plans at Condition 3, prior to installation, final design details of:

- a) the proposed substation compound (as indicatively illustrated on Drawing Reference HC1002 05 26 REV 0); and

- b) the orientation of the proposed telecommunications tower and antenna/dishes to be attached to it (as indicatively illustrated on WPD-EPX-GA-03 Rev B & WPD-EPEX-GA-01)

shall be submitted to and approved in writing by the Local Planning Authority. These final designs will not exceed the maximum parameters as shown on these indicative drawings. Thereafter, the development shall be carried out in accordance with these approved details.

## APPEARANCES

### FOR THE APPELLANT:

Thea Osmund-Smith and  
Jessica Allen, Barristers

Instructed by Christian Silk, Osborne Clark LLP

They called:

Andrew Cook  
BA (Hons) MLD CCMLI  
MIEMA CEnv

Landscape witness

Charley James-Martin  
BA (Hons) PGCert,  
MCIfA

Heritage witness

James Cook  
BSc, MA, PGDip, MRTPI

Planning witness

### FOR THE LOCAL PLANNING AUTHORITY:

Sioned Davies, Barrister

Instructed by Newark & Sherwood District  
Council

She called:

Paul Reynolds  
BA (Hons), PGDip, MA  
CMLI UDGRP FRSA

Landscape witness

Mark Clifford  
BSc (Hons) MA IHBC

Heritage witness

Christopher Whitehouse  
BSc (Hons) MRICS

Planning witness

### INTERESTED PARTIES

Dr John Hinchliff

Local resident

Neil Stafford

Ramblers Nottinghamshire

John Wolfenden

Averham, Kelham and Staythorpe Parish Council

Councillor Keith Melton

Ward Councillor and local resident



## **DOCUMENTS**

ID1	Appellants' Opening Statement
ID2	Council's Opening Statement
ID3	John Hinchliff Presentation Slides and Text
ID4	John Wolfenden Presentation Slides
ID5	Landscape Masterplan without red outline
ID6	Carla Bradbury representation
ID7	Cumulative Schemes Location Plan
ID8	Council's CIL compliance statement
ID9	Isle of Wight Case Law
ID10	Cllr Melton notes from verbal representation
ID11	Additional representation received 28/10/25 from John Hinchliff
ID12	First Edition OS Map of Averham Park
ID13	Red line site boundary with blue ownership line sheet 1 of 2
ID14	Red line site boundary with blue ownership line sheet 2 of 2
ID15	Hedgerow translocation and National Highways Note from Appellants
ID16	Council's Closing Submissions
ID17	Appellants' Closing Submissions