

Town and Country Planning Act 1990

Appeal by EDF Energy Renewables Limited (trading as EDF Renewables)

Land south of the M20, Church Lane, Aldington, Kent (known as East Stour Solar Farm)

Ashford Borough Council Reference: 22/00668/AS

Planning Inspectorate Reference: APP/E2205/W/24/3352427

Main Statement of Common Ground between EDF Energy Renewables Limited (trading as EDF Renewables) and Ashford Borough Council

1. Introduction

- 1.1 This Main Statement of Common Ground (“**Main SoCG**”) has been made between Eversheds Sutherland (International) LLP, Solicitors of Bridgewater Place, Water Lane, Leeds, LS11 5DR on behalf of EDF Energy Renewables Limited (trading as EDF Renewables) (the “**Appellant**”) and Ashford Borough Council (the “**Council**”).
- 1.2 This Main SoCG relates to a planning appeal submitted by the Appellant pursuant to Section 78(1) of the Town and Country Planning Act 1990 in respect of the Council’s decision to refuse planning permission for the installation and operation of a solar farm and associated infrastructure, known as East Stour Solar Farm.
- 1.3 The Council’s Reasons for Refusal are cited as follows within its decision notice of 29 April 2024:

"1. The proposed development would result in significant adverse individual and cumulative effects on landscape character and on visual amenity that cannot be appropriately mitigated. The development would also harm the amenity and experience of users of the public rights of way network and would cause less than substantial harm to the setting of designated heritage assets. The benefits of the proposed development would not outweigh these harms. The development would therefore be contrary to policies SP1, SP6, ENV1, ENV3a, ENV5, ENV10 and ENV13 of the Ashford Local Plan, policies AB4, AB10 and AB11 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework and National Policy Statements EN-1 and EN- 3.

2. By reason of the insufficient information provided regarding the potential impacts of the development on the significance of heritage assets with archaeological interest, the development would be contrary to policy ENV15 of the Ashford Local Plan 2030, policy AB11 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework.

3. By reason of the insufficient information provided regarding the management of construction vehicles during the construction phase of the development, the applicant has failed to demonstrate that the proposed development would have an acceptable impact on highway safety, and that the residual cumulative impacts on the road network would not be severe. The development would therefore be contrary to policies TRA7, TRA8 and ENV10 of the Ashford Local Plan 2030, policy AB10 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework.

4. By reason of the insufficient information provided regarding the mitigation and enhancement measures for badgers, breeding birds and brown hare, the applicant has failed to demonstrate that the proposed development would have an acceptable impact on protected species. The development would therefore be contrary to policies ENV1 and ENV10 of the Ashford Local Plan 2030, policy AB10 of the emerging Aldington and Bonnington Neighbourhood Plan 2030 and the provisions of the National Planning Policy Framework.

5. By reason of the absence of a Minerals Assessment, the applicant has failed to demonstrate that the safeguarded mineral deposit on the site is not being needlessly sterilised. The development would therefore be contrary to policy DM7 of the Kent Minerals and Waste Local Plan (2013 to 2030) as amended by the Early Partial Review (adopted 2020)."

2. The Appeal Site

- 2.1 The appeal site is located at land south of the M20, to the west of Sellindge and northeast of Aldington in Kent (the “**Site**”).
- 2.2 The majority of the Site is located in Aldington Parish, with the northern land parcel falling within Smeeth Parish. The Site is entirely within the administrative boundary of the Council.
- 2.3 The Site is located to the west and south of Sellindge Converter Station and the operational Sellindge Solar Farm. The Site is primarily used as arable agricultural land, with irregular shaped fields ranging between medium and large scale. The fields are bound by a mix of post and wire fencing, hedgerows and woodland.
- 2.4 There are 4 Public Rights of Way (“**PRoW**”) crossing the Site and which form part of the wider PRoW network, as shown on Figure 11.7 of the Environmental Statement dated April 2022. Public footpath AE437 runs west from Church Lane along the northern field boundary of the northern land parcel then south across the narrowest part of the northeastern part of the Site and continuing south-west outwith the red line boundary of the Site. Public footpath AE432 continues west from AE437 along the northern field boundary before crossing the Site in a south-westerly direction. Public footpath AE457 crosses the central land parcel along the south-western corner of Bested Hill. Public footpath AE459 crosses the eastern part of the Site from Partridge Farm. Additionally public footpaths AE656 and AE657 run adjacent to the northern and north-western field boundaries of Bested Hill.
- 2.5 A range of transport and energy infrastructure crosses and adjoins the Site. The land is also crossed by overhead electricity lines on wooden poles (33kV) and pylons (400kV) connecting to the Sellindge Converter Station. A sewage works is located to the immediate east of the Converter Station.
- 2.6 A location plan for the Site is attached at **Appendix 1**.

3. **The Local Area**

- 3.1 The village of Aldington is approximately 1.3km southwest of the Site, and the village of Smeeth is approximately 400m to the northwest of the Site.
- 3.2 Other than the nearest settlements noted in paragraph 3.1, in the wider area around the Site there is Brabourne Lees, Lilyvale and Mersham. Notwithstanding the presence of various pieces of energy infrastructure, including the Sellindge Converter Station and adjacent operational solar farm, the M20 and the HS1 and local railway lines, the local area is predominantly rural in nature and undulating in character. Dispersed dwellings and farms are situated alongside the minor roads surrounding the Site.
- 3.3 The land surrounding the Site is mainly utilised for agricultural purposes and comprises a mixture of arable and pasture land. There are several blocks of woodland, including Ancient Woodland, in the area, including Backhouse Wood to the west of Bested Hill, Park Wood to the north and Partridge Plantation and Round Wood to the east of Church Lane.
- 3.4 Church Lane runs north/south between the southern land parcel at Bested Hill and the eastern land parcel around Partridge Plantation. The HS1 and local railway lines travel east/west across the Site separating the northern development area from the rest of the Site. The M20 forms the northern boundary of the northern parcels of land.

4. **Planning History**

- 4.1 This section sets out some background to the application and subsequent appeal for East Stour Solar Farm.

Screening

- 4.2 A screening opinion was adopted by the Council on 25 August 2021, which confirmed the Council's position that East Stour Solar Farm constituted Environmental Impact Assessment ("EIA") development.

Scoping

- 4.3 The Appellant submitted a request to the Council for a Scoping Opinion, by way of a Scoping Report dated October 2021. The Council did not adopt any Scoping Opinion in response to this request and therefore the Environmental Statement prepared in support of the planning application was done so in the absence of the Council's position in this regard.

Planning Application

- 4.4 The Appellant submitted the planning application for East Stour Solar Farm to the Council on 26 April 2022, which application was validated by the Council on 29 July 2022 and allocated reference 22/00668/AS.
- 4.5 The Council issued a decision notice refusing planning permission for the application on 29 April 2024, with five Reasons for Refusal as set out in paragraph 1.3 above.
- 4.6 The Appellant submitted an appeal against the Council's decision to refuse planning permission on 23 September 2024, which was allocated reference APP/E2205/W/24/3352427 by the Planning Inspectorate.

5. The Proposed Development

- 5.1 The planning application as submitted sought planning permission from the Council for the installation and operation of a solar farm and associated infrastructure (the "**Proposed Development**"). This is to comprise of:
- 5.1.1 an array of ground-mounted solar photovoltaic panels;
 - 5.1.2 panel frames at an angle of approximately 20°, with a maximum height of 3m and associated ground anchors and concrete 'feet';
 - 5.1.3 upgrading and/or widening of existing access tracks, together with creation of a new access point to cross Church Lane and new access tracks;
 - 5.1.4 up to 20 containerised inverter/transformer units of up to 6m long by 3m wide and 3m high;
 - 5.1.5 up to three cabinets containing welfare facilities, security and solar farm control systems, and equipment for general maintenance and spare parts;
 - 5.1.6 up to four substations of up to 6m long, by 3m wide and 3m high;
 - 5.1.7 underground cabling between the panels and inverter/transformer units and between those units to the substations; and
 - 5.1.8 a security perimeter fence in stock style with wooden posts and open wire mesh of up to 2.15m tall, together with creation of new gates and erection of CCTV cameras; and up to three temporary construction compounds and temporary lighting.

- 5.2 The description of development has not changed since submission of the planning application.

Application Submission

- 5.3 It is agreed between the parties that paragraphs 4.2 to 4.4 of the Appellant's Statement of Case accurately reflect the documentation submitted as part of the original application submission made to the Council on 26 April 2022. For the purposes of this Main SoCG, the following application documentation is considered to be of most relevance to the inquiry.

- Socio Economic and Sustainability Statement dated April 2022; and
- Environmental Statement ("ES") dated April 2022, comprising:
 - Volume 1: Non-Technical Summary;
 - Volume 2a: Written Statement;
 - Volume 2b: Technical Appendices;
 - Volume 3: Figures;
 - Volume 4: Visualisations; and
 - Confidential Appendix 10.1a in respect of badgers.

Additional Application Documentation

- 5.4 It is agreed between the parties that paragraphs 4.5 to 4.9 of the Appellant's Statement of Case accurately reflect the documentation submitted post submission of, but prior to determination of, the application. For the purposes of this Main SoCG, the following supplementary application documentation is considered to be of most relevance to the inquiry.

- 5.4.1 Supplementary Environmental Information ("SEI") dated January 2024 following receipt of comments received during the consultation process and direct commentary from the Council following a meeting on 16 June 2023, comprising:

- 5.4.1.1 SEI Covering Letter dated 10 January 2024;
- 5.4.1.2 Volume 1: Non-Technical Summary;
- 5.4.1.3 Volume 2a: Written Statement;
- 5.4.1.4 Volume 2b: Technical Appendices;
- 5.4.1.5 Volume 3: Figures; and
- 5.4.1.6 Volume 4: Visualisations;

- 5.4.2 Updated Design and Access Statement dated January 2024;

- 5.4.3 Planning Statement dated January 2024;

- 5.4.4 Replacement ES Volume 4 Visualisations comprising of:

- 5.4.4.1 Viewpoint 5 Revision A; and
- 5.4.4.2 Viewpoint 7 Revision A;

- 5.4.5 Replacement SEI Figures comprising of:
 - 5.4.5.1 Figure 11.11 Revision A – VP6 (Layout Refinement) [Year 10 post construction];
 - 5.4.5.2 Figure 11.12 Revision A – VP7 (Layout Refinement) [Year 10 post construction]; and
 - 5.4.5.3 Figure 11.13 – VP8 (Layout Refinement) [at completion]; and
- 5.4.6 Update to ES Appendix 11.2 LVIA Methodology and VP Analysis in respect of Viewpoint 7 (at Appendix A of the covering submission letter).

Council's Consideration of the Application

- 5.5 The Planning Officer produced a report confirming that they intended to refuse the planning application. This position was formalised by the Council in its decision notice of 29 April 2024.
- 5.6 The decision notice cites five Reasons for Refusal, which are set out in full in paragraph 1.3 above.

Appeal Documents

- 5.7 The Appellant submitted a number of additional documents as part of its appeal submission, comprising:
 - 5.7.1 An updated version of SEI Figure 11.9: Mitigation Plan (now Revision B), dated September 2024, which confirms the Appellant's mitigation proposals to include two permissive footpaths in the Site and some additional hedgerow planting;
 - 5.7.2 an ecological submission in respect of clarifications sought from Kent County Council ("KCC") in relation to breeding birds and badger, as well as in response to a local third party submission in respect of brown hare, dated September 2024, as prepared by Turnstone Ecology Limited;
 - 5.7.3 a Minerals Assessment in respect of compliance with Policy DM7 of the Kent Minerals and Waste Local Plan dated September 2024, as prepared by IC Planning; and
 - 5.7.4 a Biodiversity Net Gain Assessment in light of the requirements of emerging Policy AB1 of the Aldington and Bonnington Neighbourhood Plan, dated September 2024, as prepared by Turnstone Ecology Limited.

6. Statement of Common Ground

- 6.1 To assist the Inspector in preparing for the appeal, and with the intention of minimising the extent of oral evidence they will need to receive, this document has been prepared to detail those areas of agreement and disagreement that have been reached between the Appellant and the Council as at 25 November 2024.

7. Development Plan

- 7.1 This section of the Main SoCG seeks to identify the key policy documents relevant to the determination of the Proposed Development.

7.2 The statutory test is that set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the "**2004 Act**"), namely that the Proposed Development must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.3 For current purposes, and in particular, section 38(6) of the 2004 Act, the adopted Development Plan in respect of the Proposed Development comprises:

7.3.1 Ashford Local Plan adopted in February 2019;

7.3.2 Aldington and Bonnington Neighbourhood Plan adopted in October 2024; and

7.3.3 Kent Minerals and Waste Local Plan 2013-30 adopted in September 2020.

Ashford Borough Local Plan

7.4 The policies of the Ashford Borough Local Plan which the parties agree are relevant for the consideration of the Proposed Development are considered to be as follows:

- **Policy SP1: Strategic Objectives;**
- **Policy SP6: Promoting High Quality Design;**
- **Policy TRA7: The Road Network and Development;**
- **Policy TRA8: Travel Plans, Assessment and Statements;**
- Policy TRA9: Planning for HGV Movements;
- **Policy ENV1: Biodiversity;**
- **Policy ENV3a: Landscape Character and Design;**
- Policy ENV3b: Landscape Character and Design in the AONBs;
- Policy ENV4: Light Pollution and Promoting Dark Skies;
- **Policy ENV5: Protecting Important Rural Features;**
- Policy ENV6: Flood Risk;
- Policy ENV9: Sustainable Drainage;
- **Policy ENV10: Renewable and Low Carbon Energy;**
- **Policy ENV13: Conservation and Enhancement of Heritage Assets;** and
- **Policy ENV15: Archaeology.**

7.5 The policies shown in bold above were referenced by the Council within its decision notice refusing planning permission and remain in contention between the parties.

Aldington and Bonnington Neighbourhood Plan

7.6 The policies of the Aldington and Bonnington Neighbourhood Plan which the parties agree are relevant for the consideration of the Proposed Development are considered to be as follows:

- Policy AB1: Green and Blue Infrastructure and Delivering Biodiversity Net Gain;
- Policy AB2: Managing the Environmental Impact of Development;
- **Policy AB4: Protection of Locally Significant Views;**
- Policy AB8: Promoting Local Character Through High-Quality Design;
- **Policy AB10: Renewable and Community Energy;** and
- **Policy AB11: Conserving Heritage Assets.**

7.7 The policies shown in bold above were referenced by the Council within its decision notice refusing planning permission and remain in contention between the parties.

Kent Minerals and Waste Local Plan 2013-30

7.8 The policies of the Kent Minerals and Waste Local Plan which the parties agree are relevant for the consideration of the Proposed Development are considered to be as follows:

- Policy DM 7: Safeguarding Mineral Resource.

7.9 Policy DM 7 was referenced by the Council within its decision notice refusing planning permission. However, it is agreed between the parties that the Proposed Development complies with this policy and it is therefore no longer in contention.

Development Plan Related Material Considerations

Landscape Character SPD

7.10 The Landscape Character SPD was adopted in 2011 to sit alongside the previous Ashford Core Strategy. It is intended to promote regard for the landscape and to ensure new development makes a positive contribution to the landscape, including its key characteristics and features in which it is located.

Sustainable Drainage SPD

7.11 The Sustainable Drainage SPD ("**SuDS SPD**") was adopted in October 2010 and sets out how developers can meet the requirement of Local Plan 2030 Policy ENV9. Guidance is provided on the provision of sustainable drainage systems for the disposal of surface water and rainwater, so that it is retained either on-site or within the immediate area.

8. Other Material Considerations

8.1 The following elements of local and national land use planning policy and guidance are agreed to be material considerations which are relevant to the determination of the Proposed Development:

- National Planning Policy Framework (updated December 2023);
- National Planning Practice Guidance (online resource) (published March 2014);
- Energy Policy and Guidance (as listed in the section under this subheading below);
- National Planning Policy Framework draft text for consultation (July 2024);

- Renewable Energy Planning Guidance Note 2: The Development of Large Scale (>50Kw Solar PV Arrays (Ashford Borough Council- 2013);
- Kent Downs AONB Management Plan (2021 – 2026);
- National Policy Statements; and
- KCC Rights of Way Improvement Plan 2018-2028.

National Planning Policy Framework

8.2 The National Planning Policy Framework ("**NPPF**"), released in March 2012, sets out the Government's planning policies for England and how these are expected to be applied. It has subsequently been updated on a number of occasions, the most recent update having taken place in December 2023.

8.3 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF is the primary statement of national planning policy and sets out the Government's objectives for the planning system and in particular those for achieving sustainable development. The three dimensions of sustainable development are economic, social and environmental.

8.4 The following sections of the NPPF are relevant to the determination of the Proposed Development:

- Chapter 2 – Achieving sustainable development;
- Chapter 4 – Decision-making;
- Chapter 6 – Building a Strong, Competitive Economy;
- Chapter 8 – Promoting healthy and safe communities;
- Chapter 9 – Promoting sustainable transport;
- Chapter 11 – Making effective use of land;
- Chapter 12 - Achieving well-designed and beautiful places;
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change;
- Chapter 15 – Conserving and enhancing the natural environment;
- Chapter 16 – Conserving and enhancing the historic environment; and
- Chapter 17 – Facilitating the sustainable use of minerals.

8.5 The Appellant considers that the NPPF is an important material consideration and substantial weight should be attributed to it in the determination of this planning appeal.

National Planning Practice Guidance

8.6 The national Planning Practice Guidance ("**PPG**") was originally launched on 28 August 2013 by the Department for Communities and Local Government in draft for testing and comment as a 'Beta' web-based resource. It was formally adopted on 6 March 2014 and replaced a number of guidance documents.

- 8.7 It adds further context to the NPPF and provides a series of guidance notes on a number of procedural elements of the planning system as well as more detailed guidance on area specific matters.

Energy Policy and Guidance

- 8.8 There is a significant amount of guidance and policy on renewable energy both locally and nationally. The ES and Planning Statement submitted with the planning application outlined the position in considerable detail and it is not considered expedient to reiterate that fully here. However, a summary has been provided of the pertinent points below.

- 8.9 In May 2021, the Council made a clear commitment to carbon net zero targets within their own estate by 2030 and to support the Government's national agenda to reach net zero carbon more widely in the Borough by 2050. The Council published a consultation draft of the Ashford to Zero Plan: Our Route to Net Zero Emissions in 2021. In June 2022 the Council published its latest Climate Change Strategy which includes a Climate Action Plan for meeting the 2050 target for Borough wide emissions. The Action Plan sets out 8 priorities and of particular relevance is priority 3 which is: Reduce reliance on fossil fuels for energy by increasing renewable energy generation and consumption. It then sets out the following outcomes to achieve this:

- Increase in renewable energy use across the Borough;
- Higher standards of environmental sustainability in new developments;
- Council drives local renewable energy generation and usage projects at all scales, supporting the community with accessibility to green energy and sharing learning; and
- Council achieves 100% green energy use in its own operations.

- 8.10 The Council also published its Corporate Plan 2022 – 2024. Objective GP1 of the Council's Corporate Plan sets out a commitment to reducing reliance on fossil fuels in line with the Council's carbon neutral plan. It also confirms that through the Local Plan process the Council will seek opportunities for renewable energy generation and energy efficient homes.

- 8.11 At a national level the following guidance is of relevance:

- The Clean Growth Strategy: Leading the Way to a Low Carbon Future (2018);
- Energy White Paper Powering our Net Zero Future (December 2020);
- HM Treasury National Infrastructure Strategy 2020;
- British Energy Security Strategy (April 2022); and
- Powering up Britain Policy Paper (March 2023).

- 8.12 Of relevance to the new Labour Government's position on renewables is the following paragraph from the Written Ministerial Statement made by the Deputy Prime Minister on 30 July 2024 alongside the publication of the consultation draft NPPF.

"Turning to green energy, boosting the delivery of renewables will be critical to meeting the Government's commitment to zero carbon electricity generation by 2030. That is why on this Government's fourth day in office we ended the ban on onshore wind, with that position formally reflected in the update to the National

Planning Policy Framework published today. We must however go much further – which is why we are proposing to: boost the weight that planning policy gives to the benefits associated with renewables; bring larger scale onshore wind projects back into the Nationally Significant Infrastructure Projects regime; and change the threshold for solar development to reflect developments in solar technology.”

National Planning Policy Framework: draft text for consultation (July 2024)

8.13 On 30 July 2024 the new Labour Government published consultation on the proposed reforms to the NPPF and other changes to the planning system. Whilst it is acknowledged that the proposed changes to the NPPF can only be given limited weight at this time, the statement above and proposed changes to the NPPF clearly sets out the Government’s direction of travel.

8.14 Of most relevance to the Proposed Development is the guidance at paragraph 164 which states:

“Local planning authorities should support planning applications for all forms of renewable and low carbon development. When determining planning applications for these developments, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the proposal’s contribution to renewable energy generation and a net zero future;*
- b) recognise that even small-scale and community-led projects provide a valuable contribution to cutting greenhouse gas emissions;*
- c) in the case of applications for the repowering of life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site.”*

Renewable Energy Planning Guidance Note 2: The Development of Large Scale (>50Kw Solar PV Arrays (Ashford Borough Council- 2013)

8.15 This document was prepared by the Council in 2013 to assist all parties involved in the renewable energy development process. The status of this document is that it has been approved by the Council's Cabinet and it is intended to advise decision makers when determining applications. As informal practice guidance it can only be given limited weight in the consideration of the Proposed Development.

Kent Downs AONB Management Plan (2021 – 2026)

8.16 This document has been prepared by the Joint Advisory Committee (“**JAC**”) for the Kent Downs AONB and sets out the aims and principles for the management of the AONB.

National Policy Statements

8.17 Paragraph 5 of NPPF confirms that the national policy statements (“**NPSs**”) form part of the overall framework of national planning policy and may be a material consideration in preparing plans and making decisions on planning applications. These include:

- Overarching National Policy Statement for Energy (EN-1); and
- National Policy Statement for Renewable Energy Infrastructure (EN-3).

8.18 While these NPSs are primarily designed to provide a policy framework for nationally important developments (Nationally Significant Infrastructure projects (“**NSIPs**”)) which will pass through a different planning procedure for a Development Consent Order (in the case of solar developments these are proposals for more than 50MW capacity), they are confirmed to be a material consideration in the determination of planning applications such as the Proposed Development below the 50MW limit.

8.19 Paragraph 1.2.2 is relevant and states:

“Whether the policies in this NPS are material and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy.”

9. **Areas of Agreement**

9.1 This section of the Main SoCG sets out those matters which are agreed between the Appellant and the Council on a topic basis.

Landscape and Visual

9.2 An assessment of the individual and cumulative effects of the Proposed Development on landscape resources and visual amenity has been undertaken and is presented in the ES, SEI and Further Information (submitted in April 2024) (“**FI**”) submitted to the Council during the application process. In particular, the following documents are material to the consideration of this appeal:

- ES Volume 2a Written Statement: Chapter 11 – Landscape and Visual Impact – for the assessment of the individual effects of the Proposed Development, referred to in the SEI and the Appellant’s Statement of Case as development scenario 1 (LVIA);
- ES Volume 2b Technical Appendices: Appendix 11.1 – Landscape Character Extracts;
- ES Volume 2b Technical Appendices: Appendix 11.2 – Viewpoint Analysis (Prediction Methodology and Findings);
- ES Volume 2b Technical Appendices: Appendix 11.3 – Methodology Statement for Viewpoint Graphic Production;
- ES Volume 3 Figures: Figures 6.1 – 6.7 – to illustrate the development proposals;
- ES Volume 4 Visualisations: Visualisations for Viewpoints 1 – 4, 6 and 8 – 12 – to illustrate the existing and predicted views of the Proposed Development (supplemented in SEI for Viewpoints 9 – 13);
- SEI Volume 2a Written Statement: Chapter 11 - Landscape and Visual Impact – for the assessment of the cumulative effects of the Proposed Development, referred to in the SEI and the Appellant’s Statement of Case as development scenarios 2 and 3 (CLVIA);
- SEI Volume 2b Appendix 11.1 – LVIA/CLVIA Method of Assessment;
- SEI Volume 3 Figures: Figures 1.1 – 1.3;
- SEI Volume 3 Figures: Figures 11.1 – 11.8 Revision A and Figures 11.14 – 11.26;
- SEI Volume 4 Visualisations: Visualisations for Viewpoints 9 – 13 and cumulative visualisations for Viewpoints 7, 9 and A – E;

- FI Viewpoints 6 – 8: SEI Figures 11.11 – 11.13 Revision A (these replace SEI Figures 11.11 - 11.13);
- FI Visualisations: Viewpoint 5 Revision A and Viewpoint 7 Revision A (these replace ES Volume 4 Visualisations for Viewpoints 5 and 7); and
- Updated SEI Figure 11.9, Revision B – Mitigation Plan (this replaces SEI Figure 11.9 Revision A) (amended for submission as part of the appeal).

9.3 The Proposed Development includes provision for various mitigation measures, as illustrated on SEI Figure 11.9 Revision B, amended for submission as part of the appeal. These include:

- 9.3.1 Two new permissive footpaths (Footpath A and Footpath B).
- 9.3.2 New native hedgerows to be planted along the outside of the perimeter fence in various locations around the northern, western, central and eastern parcels of the Site.
- 9.3.3 Improvements to existing field boundaries including gap planting and increasing the width and species mix of existing hedgerows with new planting.
- 9.3.4 Wildflower/grassland over much of the Site, plus riparian mixed planting alongside the streams and ditches on the Site.

9.4 It should however be noted that discussions remain ongoing between the parties in respect of landscape and visual impacts arising as a result of the Proposed Development and it is proposed that this topic be the subject of a further separate topic specific Statement of Common Ground.

Heritage

9.5 It is agreed that in relation to heritage matters, the Proposed Development would affect two designated heritage assets. These are:

- Church of St Martin (grade I NHLE 1071208); and
- Court Lodge Farmhouse (grade II* NHLE 1071209).

9.6 The listing descriptions of these two assets are quoted in full in section 5 (paragraphs 5.9 and 5.13) of the Historic Environment Desk-Based Assessment contained at Appendix 12.1 of the ES.

9.7 There are no Scheduled Monuments, Registered Parks and Gardens, or Registered Battlefields either within or in the surroundings of the Site. Although Barrowhill Barrow Cemetery scheduled monument was initially raised as a potential concern by Historic England, the lack of an impact on the significance of this monument is no longer disputed and this is reflected in the later consultation response of Historic England.

9.8 It is agreed that, as established within *R (James Hall and Company Ltd) v City of Bradford MDC* [2019] EWHC 2899 (Admin), HHJ Belcher, in NPPF policy terms there are only three categories of harm (none, less than substantial and substantial) but less than substantial harm covers a broad range and the level of harm within the less than substantial range must be weighed against public benefits, as directed by paragraph 208, and there must be clear and convincing justification, as set out in paragraph 206.

- 9.9 It is agreed that the Proposed Development would result in less than substantial harm to the Church of St Martin and Court Lodge Farmhouse. NPPF paragraph 208 applies and states:

"Where a development proposal 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 including, where appropriate, securing its optimum viable use."

- 9.10 It is agreed that the schemes that needed to be assessed for cumulative impacts in relation to heritage matters are set out in Chapter 12 of the SEI and that there were no significant cumulative effects arising on the two designated heritage assets.

Ecology and Ornithology

- 9.11 The fourth Reason for Refusal states that insufficient information has been provided by the Appellant in relation to enhancement measures for Badger (*Meles meles*), Breeding Birds and Brown Hare (*Lepus europaeus*), failing to demonstrate that the Proposed Development would have an acceptable impact on protected species.

- 9.12 In terms of ecological submissions, the planning application was supported by an Ecological Assessment, which can be found in Chapter 10 of the ES, and updated within the SEI to reflect an updated cumulative assessment. The ES included the details of ecological surveys completed across the Site by the Appellant in 2021, and an assessment on the potential effects of the proposals on the habitats and protected species present within the Site. An update walkover survey of the Site in July 2024 confirmed no changes to the habitats present on Site or evidence of previously unidentified protected species (i.e. no additional constraints were identified). All the survey work is considered to be in date and relevant to the determination of this appeal.

Flora

- 9.13 The Proposed Development would result in the direct loss of approximately 65.49 ha of arable land and sheep-grazed improved grassland from the siting of solar arrays. Neither habitat is of significant ecological value and the impact of habitat loss is considered to be negligible.

- 9.14 All areas of adjacent habitats including the brook, the East Stour River corridor and all areas of adjacent woodland will not be directly affected by the proposals.

- 9.15 The supporting document *TT3176-East Stour Biodiversity Net Gain-R03-Rev01 (Turnstone Ecology, 2024)* submitted with the appeal ("**BNG Assessment**") demonstrates that the Proposed Development would result in a significant Biodiversity Net Gain. As a result of proposed habitat retention, enhancement and creation, the Proposed Development will result in a net gain of 250.93 habitat units which equates to a 116.84% net gain on habitats and a net gain of 18.54 hedgerow units which equates to an 230.36% net gain on hedgerows.

- 9.16 As part of the ecological cumulative impact assessment for the Proposed Development (in the SEI) and three adjacent proposed projects it was determined that the proposals, in combination, will result in no significant cumulative adverse residual impacts on habitats.

Fauna

- 9.17 The suite of faunal surveys undertaken at the Site and proposed mitigation measures detailed in the Ecological Assessment demonstrate that no operational impacts or negative

residual impacts were predicted to: Dormouse, Bats, Otters and Water Vole, Great Crested Newts, Deer, Hedgehogs, Reptiles and Birds (further details in relation to Lapwing and Skylark are provided below).

- 9.18 It is agreed that whilst impacts to Badger, Skylark, Lapwing and Brown Hare were referenced within a Reason for Refusal, all other ecological and ornithological impacts are not significant and the Proposed Development will result in no operational impacts, residual impacts or cumulative impacts to any other species.
- 9.19 As part of the ecological cumulative impact assessment for the Proposed Development (in the SEI) and three adjacent proposed projects it was determined that the proposals, in combination, will result in no significant cumulative adverse residual impacts on species.
- 9.20 No additional species-specific surveys are necessary to enable determination of this appeal.
- 9.21 It is agreed between the parties that the Proposed Development is acceptable in relation to the above material considerations, and these do not form part of the matters in dispute.

Species discussed in the fourth Reason for Refusal

- 9.22 Prior to the submission of the clarifications requested by KCC's Ecological Advice Service ("**EAS**"), the parties were in disagreement over whether or not the Appellant had demonstrated that the Proposed Development would have an acceptable impact on protected species in relation to:

- Badger;
- Breeding Birds comprising of lapwing and skylark; and
- Brown Hare.

Badger

- 9.23 KCC EAS sought:
- 9.23.1 A figure showing the exact location of badger setts on the Site;
- 9.23.2 Clarification as to the potential indirect disturbance impacts to badgers; and
- 9.23.3 The Appellant stated fence installation would take place between May/June and September; KCC EAS suggested this is usually licenced between July and November.
- 9.24 The supporting document *TT3176-East Stour Supplementary Ecology Information-R02-Rev00 (Turnstone Ecology, 2024)* submitted with the appeal ("**Supplementary Ecology Information**") includes a figure showing the exact location of Badger setts. This document also clarifies that the installation of fencing and solar panels within 30m of the Badger sett could cause disturbance impacts and details a suitable mitigation strategy. In addition, the Appellant is in agreement with KCC EAS that the fencing works should take place between July and November.
- 9.25 It is agreed that these matters are no longer in dispute between the parties and that, subject to imposition of appropriate planning conditions, impacts arising to Badger as a result of the Proposed Development are considered to be acceptable.

Skylark and Lapwing

- 9.26 KCC EAS sought further information regarding the design and management strategy for Skylark and Lapwing, to ensure that the proposed mitigations were sufficient for the loss of breeding territories arising as a result of the Proposed Development.
- 9.27 The Appellant has provided the further information and clarification in the Supplementary Ecology Information to support the resolution of this dispute.
- 9.28 As described in Paragraph 10.137 in Chapter 10 of the ES, alongside further information in Section 3 of the Supplementary Ecology Information document the mitigation strategy for Lapwing and Skylark includes the enhancement of an area of approximately 7.5ha of arable to wildflower meadow to the east of the southern array. In addition, all areas of habitat under the solar panels will be enhanced from intensively farmed or sheep grazed farmland to wildflower grassland. Further areas of grassland habitat will be created to the east and south of the northern array.
- 9.29 Subject to appropriate conditions, including a Ecological Design Strategy to secure the long-term, appropriate management of created/retained habitat features on site it is agreed impacts arising to Skylark and Lapwing as a result of the Proposed Development are considered to be acceptable.

Brown Hare

- 9.30 Since publication of the EcIA (as part of the ES) a video showing Brown Hare has been provided by a local resident which is presented as being adjacent to the Site. Whilst KCC EAS did not raise any concerns in relation to Brown Hare, the Council included Brown Hare in the fourth Reason for Refusal.
- 9.31 The Appellant has provided the further information and clarification in the Supplementary Ecology Information to support the resolution of this dispute.
- 9.32 Numerous surveys were completed (in support of the EcIA, as part of the ES) at a time of year where Brown Hare should have been active, however none were recorded by Turnstone Ecology. It is therefore considered that any Brown Hare present within and adjacent to the Site are in very low densities. Direct impacts on Brown Hare are not anticipated as they are a highly mobile species.
- 9.33 The ecological enhancements on the Site, proposed as part of Chapter 10 of the ES, will result in the creation of large areas of grassland outside of the panels as well as the creation of grassland under the panels themselves. In addition, Site-wide fencing will be installed so that there is a 150mm gap which will allow passage of Brown Hare across the Site. The increase in grassland habitats will be of benefit to breeding and foraging Brown Hare and it is therefore considered that the Proposed Development is likely to have a minor positive impact on Brown Hare.
- 9.34 To ensure no direct construction related impacts occur to Brown Hare the Supplementary Ecology Information includes recommendations for a pre-construction survey to ensure forms containing very young leverets are not present in the working areas. Should active forms be identified an exclusion zone of 50m will be applied around each active form until it has been proven to be naturally abandoned.
- 9.35 It is agreed that these matters are no longer in dispute between the parties and that, subject to imposition of appropriate planning conditions, impacts arising to Brown Hare as a result of the Proposed Development are considered to be acceptable.

Conclusions

9.36 As demonstrated above, the issues raised by KCC EAS and request for further information have been addressed in the Supplementary Ecology Information. It is agreed that Chapter 10 of the ES alongside the Supplementary Ecology Information show that subject to imposition of appropriate planning conditions, impacts to ecology arising as a result of the Proposed Development are considered to be acceptable and this matter is no longer in dispute.

Other Topics

9.37 It is agreed between the parties that, subject to application of appropriately worded conditions where appropriate, the Proposed Development is acceptable in relation to the following material considerations:

- Geology, hydrology, and hydrogeology, including controlled waters, flood risk and surface run-off from the Site;
- Noise, including acoustic residential amenity impacts;
- Glint and glare;
- Tourism and recreation;
- Socio-economic impacts;
- Land and Groundwater Contamination;
- Air quality;
- Residential amenity;
- Public safety issues arising from the Proposed Development;
- Temporary loss of Best and Most Versatile agricultural land; and
- Human rights under Article 8 of Part 1 of Schedule 1 and under Article 1 of Part 2 of Schedule 1 of the Human Rights Act 1998 (as amended), including diminution in the value of residential property.

9.38 It is agreed that Reason for Refusal 3 is based on KCC's consultation responses dated 26 August 2023 and 21 February 2024, which are capable of being addressed through the Construction Traffic Management Plan and associated imposition of a planning condition and therefore should no longer be considered to comprise a reason for refusing the Proposed Development.

9.39 It is agreed that the Minerals Assessment dated September 2024 as submitted as part of the Appellant's appeal submission demonstrates compliance with Policy DM7 of the Kent Minerals and Waste Local Plan and that Reason for Refusal 5 is therefore addressed and should no longer be considered to comprise a reason for refusing the Proposed Development.

10. Areas of Disagreement

10.1 This section considers the topics beyond planning policy which are broadly in dispute between the parties, with the intention of narrowing the extent of disagreement therein.

Landscape and Visual

- 10.2 The Appellant considers that the mitigation measures proposed are reasonable and appropriate and that the Year 10 visualisations for Viewpoints 1 – 13 provide an accurate representation of the degree of screening that would be provided by year 10 of the operational phase during the summer months. The Council does not agree with this position.
- 10.3 The parties are continuing to discuss all landscape and visual related matters, which remain contentious between the parties, and this will therefore be the subject of a separate topic-specific Statement of Common Ground.

Heritage

- 10.4 The following matter is in dispute between the Council and Appellant:
- 10.4.1 While the Appellant and the Council agree that in relation to Church of St Martin and Court Lodge Farmhouse the level of harm on their significance is less than substantial, the level of the harm within the less than substantial range is not agreed. The Appellant considers that the effect is in the lower end of the less than substantial harm range, and the Council considers that the effect is at the higher end of the less than substantial harm range.

Archaeology

- 10.5 The Appellant and the Council do not agree that the appropriate level of information relating to archaeology has been submitted as part of the planning application or appeal.
- 10.6 Paragraph 200 of the NPPF (2023) states:
- “In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.”*
- 10.7 The Council’s view is that there is no integrated and informed assessment of significance of the heritage assets drawing upon the results of the HEDBA, the geophysical survey and the Evaluation Report (Historic England Advice Note 12 (2019) on Statements of Significance). The Council also considers that there is no assessment of impact or an informed mitigation for archaeology.
- 10.8 It is the Appellant’s position that such information is not required in order to demonstrate compliance with the Local Development Plan or the NPPF. The Appellant also notes that such was never requested by the Council (or via any consultation response from KCC) during the life of the planning application. Rather, a request has been made from KCC for this further information to be provided post submission of the appeal. Despite the Appellant’s position that such is not required to enable determination of a scheme, it has however agreed to provide this information and such has been submitted to KCC (and the Council), upon which discussions remain ongoing. It is considered that a further topic-specific SoCG will be required in respect of archaeological matters.
- 10.9 The Appellant contests the Council’s conclusion as set out in the Officer Report and in Reason for Refusal 2, as it considers that the evaluation trenching requested by KCC in its consultation response to the planning application has been undertaken in accordance with a Written Scheme of Investigation approved by KCC on behalf of the Council. The Appellant will advise the Inspector that a KCC Senior Archaeological Officer visited the evaluation while the fieldwork was being undertaken and that no concerns regarding the scope,

adequacy and quality of the work undertaken have been raised with the Appellant. The Appellant consequently considers that in accordance with paragraph 200 of the NPPF, a proportionate level of detail on the archaeological aspects of the Proposed Development has been provided and that this level of detail is sufficient to understand the potential impact of the Proposed Development on the significance of the archaeological remains recorded.

Policy Considerations

- 10.10 The matters in dispute between the Council and Appellant are compliance with the development plan policies and other guidance cited in Reasons for Refusal 1 and 2. It is the Appellant's starting point that the Proposed Development complies with the development plan as a whole and positively addresses other material considerations. However, the Council's position is that the Proposed Development conflicts with the development plan as a whole and the harm it has identified is not outweighed by the planning benefits of the proposal.

Planning Benefits

- 10.11 It is agreed that the Proposed Development will generate benefits. What is not agreed is the weight to be attributed to these, which will be a matter for each party in their proofs of evidence. Said benefits include, but are not limited to:

10.11.1 Contribution of the Proposed Development towards meeting renewable energy targets and tackling the climate change agenda;

10.11.2 Availability of grid connection and grid capacity (subject to evidence of such);

10.11.3 Net gains in biodiversity;

10.11.4 Wider social and economic benefits including job creation during the construction, operational and decommissioning phases along with wider spending in the economy; and

10.11.5 The temporary and reversible nature of the Proposed Development.

11. Conditions

- 11.1 The Appellant and the Council are continuing to discuss a schedule of agreed draft planning conditions which will be provided as soon as possible.

12. Core Documents

- 12.1 The Appellant and the Council have jointly prepared a list of core documents upon which they intend to rely at the inquiry. This is a work in progress and may need to be updated as the appeal progresses. A copy of this interim agreed list is enclosed at **Appendix 2**.

This Statement of Common Ground is agreed between:

Eversheds Sutherland (International) LLP on behalf of **the Appellant**

Eversheds Sutherland (International) LLP

and

Ashford Borough Council

Ashford Borough Council

on 25 November 2024.



Appendix 1: Site Location Plan



NOTES

- 1. Dimensions and details are for planning purposes only.
- Ordnance Survey, (c) Crown Copyright 2021. All rights reserved.
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LEGEND

-  APPLICATION SITE BOUNDARY
-  LAND WITHIN EDF-R's CONTROL

-	First Issue	03.09.24	SS JL
Rev	Description	Date	Checked
Drawing No.			
SEL-EDFR-BESS-LND-PLN-500			
Project			
East Stour Solar			
Title			
Appeal Plan			
Scale	1:10,000 @A3	Drawn by	Checked
		SS	JL
		Date	03.09.24



Appendix 2: Agreed Interim List of Core Documents

1 Application and Related Documents	
CD1.1	Screening Opinion dated 25 August 2021
CD1.2	Scoping Report dated October 2021
CD1.3	List of Submission Documents (submitted in place of an application covering letter)
CD1.4	Completed Application Form dated 14 April 2022
CD1.5	Drawings submitted with the application, comprising ¹ :
CD1.5.1	Figure 1.2 – Proposed Site Layout
CD1.5.2	Site Location Plan
CD1.6	Design & Access Statement dated April 2022
CD1.7	Socio Economic and Sustainability Statement dated April 2022
CD1.8	Environmental Statement dated April 2022 (“ ES ”), comprising:
CD1.8.1	ES Volume 1: Non-Technical Summary
CD1.8.2	ES Volume 2a: Written Statement
CD1.8.3	ES Volume 2b: Technical Appendices
CD1.8.4	ES Volume 3: Figures
CD1.8.5	ES Volume 4: Visualisations
CD1.8.6	ES Confidential Appendix 10.1a [Not for the public domain]
CD1.9	Letter from the Council dated 10 May 2022 confirming that the application made was invalid
CD1.10	Revised Site Location and Layout Plans submitted 7 June 2022, comprising:
CD1.10.1	Figure 1.1: Proposed Site Location
CD1.10.2	Figure 1.1a: Proposed Site Location Expanded Scale
CD1.10.3	Figure 1.2: Proposed Site Layout
CD1.10.4	Figure 1.2a: Proposed Site Layout Expanded Scale (Sheets 1 to 4)
CD1.11	Further revised Site Layout Plans submitted 27 June 2022 comprising:
CD1.11.1	ENGN1006-100 Rev I – PV Layout Part 1
CD1.11.2	ENGN1006-100 Rev I – PV Layout Part 2

¹ It should be noted that whilst three plans were listed in the List of Submission Documents (CD1.3), two of those plans were actually duplicates of each other and one plan was mislabelled not actually identifying it as a site layout plan. The two plans with the correct naming are included at CD1.5.

CD1.12	Letter from the Council confirming the application is valid dated 29 July 2022 (erroneously dated 1 July 2022)
CD1.13	Supplementary Environmental Information (“SEI”) Covering Submission Letter to the Council dated 10 January 2024 (submitted 11 January 2024)
CD1.14	SEI dated January 2024 comprising:
CD1.14.1	SEI Volume 1: Non-Technical Summary
CD1.14.2	SEI Volume 2a: Written Statement
CD1.14.3	SEI Volume 2b: Technical Appendices
CD1.14.4	SEI Volume 3: SEI Figures
CD1.14.5	SEI Volume 4: Visualisations
CD1.15	Updated Design and Access Statement dated January 2024
CD1.16	Planning Statement dated January 2024
CD1.17	Email to Kent County Council’s Minerals and Waste Planning Policy Team dated 27 February 2024 in relation to minerals safeguarding
CD1.18	Letter to the Council dated 14 April 2024 (but submitted 16 April 2024) enclosing an update to ES Appendix 11.2 LVIA Methodology and Viewpoint Analysis (updated wording in analysis for VP7) as Appendix A, and submitting new material, which comprises:
	Replacement ES Volume 4 Viewpoints comprising:
CD1.18.1	Viewpoint 5 Revision A
CD1.18.2	Viewpoint 7 Revision A
	Replacement SEI Figures comprising:
CD1.18.3	Figure 11.11 Revision A – VP6 (Layout Refinement) [Year 10 post construction]
CD1.18.4	Figure 11.12 Revision A – VP7 (Layout Refinement) [Year 10 post construction]
CD1.18.5	Figure 11.13 – VP8 (Layout Refinement) [at completion]
CD1.19	Officer Report for planning application 22/00668/AS
CD1.20	Council Decision Notice dated 29 April 2024 for planning application 22/00668/AS
CD1.21	SEI Figure 11.9 Revision B – Mitigation Plan
CD1.22	Ecological Submission dated September 2024, prepared by Turnstone Ecology Limited [Redacted for the public domain due to confidential contents]
CD1.23	Minerals Safeguarding Assessment dated September 2024, prepared by IC Planning
CD1.24	Biodiversity Net Gain Assessment dated September 2024, prepared by Turnstone Ecology Limited
2 Consultee and Third Party Responses	

CD2.1	Consultation Responses to Application Documentation, including local action group, comprising CD2.1.1 to CD2.1.24:
CD2.1.1	Aldington and Bonnington Parish Council (14 September 2022)
CD2.1.2	Ashford Borough Council, including Landscape and Visual Impact Assessment review prepared for the Council by Land Management Services Ltd dated 5 December 2022 (16 May 2023)
CD2.1.3	Church Lane Group (26 July 2022)
CD2.1.4	Church Lane Group (undated, but a resubmission of the 26 July 2022 objection, with some amendments to the text)
CD2.1.5	Church Lane Group (9 August 2022)
CD2.1.6	Church Lane Group (dated 9 August 2022 but different to CD2.1.5 submission and submitted 30 August 2022)
CD2.1.7	Church Lane Group (21 October 2022)
CD2.1.8	Environment Agency (23 August 2022)
CD2.1.9	Historic England (5 September 2022)
CD2.1.10	Kent County Council – PROW & Access (16 August 2022)
CD2.1.11	Kent County Council – Ecological Advice Service (25 August 2022)
CD2.1.12	Kent County Council – Flood & Water Management (18 August 2022)
CD2.1.13	Kent County Council – Heritage, Environment & Waste (30 August 2022)
CD2.1.14	Kent County Council – Highways and Transport (24 August 2022)
CD2.1.15	Kent Downs AONB Unit (30 November 2022)
CD2.1.16	Kent Police (16 August 2022)
CD2.1.17	Kent Police (16 August 2022)
CD2.1.18	Kent Ramblers (August 2022)
CD2.1.19	Mersham Parish Council (13 October 2022)
CD2.1.20	National Highways (22 August 2022)
CD2.1.21	Natural England (13 September 2022)
CD2.1.22	River Stour (Kent) IDB (25 October 2022)
CD2.1.23	Smeeth Parish Council (21 October 2022)
CD2.1.24	The British Horse Society (17 August 2022)
CD2.1.25	Tunbridge Wells Borough Council – Environmental Protection (6 September 2022)
CD2.1.26	Neos Networks (29 July 2022)

CD2.2	Consultation Responses, including local action group, to Supplementary Environmental Information dated January 2024, comprising CD2.2.1 to CD2.2.12:
CD2.2.1	Aldington and Bonnington Parish Council (14 February 2024)
CD2.2.2	Ashford Borough Council – Landscape and Visual (prepared for the Council by Land Management Services Ltd) (23 February 2024)
CD2.2.3	Church Lane Group (2 March 2024)
CD2.2.4	Environment Agency (6 March 2024)
CD2.2.5	Historic England (11 March 2024)
CD2.2.6	Kent County Council – PROW & Access (7 March 2024)
CD2.2.7	Kent County Council – Ecological Advice Service (18 April 2024)
CD2.2.8	Kent County Council – Minerals & Waste Planning Policy Team (1 February 2024)
CD2.2.9	Kent County Council – Flood & Water Management (14 February 2024)
CD2.2.10	Kent County Council – Highways (21 February 2024)
CD2.2.11	Kent Downs National Landscape Unit (formerly known as Kent Downs AONB Unit) (20 February 2024)
CD2.2.12	National Highways (29 February 2024)
CD2.2.13	Natural England (15 March 2024)
CD2.2.14	Network Rail (4 March 2024)
CD2.3	Third Party Representations (60 objections of which 13 comprise second or third submissions from the same party, and excluding the objections submitted by Church Lane Group which are included as part of the consultation responses)
CD2.4	Third Party Responses to the appeal [<i>detail to be added when available</i>]
3 The Development Plan, National Policy and Other Material Considerations	
CD3.1	Ashford Borough Local Plan adopted February 2019
CD3.2	Kent Minerals and Waste Local Plan 2013-30 adopted September 2020
CD3.3	Aldington and Bonnington Neighbourhood Plan 2022-2030 adopted 18 October 2024
CD3.4	National Planning Policy Framework (updated December 2023)
CD3.5	National Planning Practice Guidance (online resource) http://planningguidance.planningportal.gov.uk/
CD3.6	Ashford Borough Council’s Landscape Character Supplementary Planning Document (April 2011), including Addendum
CD3.7	Ashford Borough Council Renewable Energy Planning Guidance Note 2: The Development of Large Scale >50Kw Solar PV Arrays (2013)

CD3.8	Ashford to Zero Plan: Our Route to Net Zero Emissions (Consultation Draft 2021)
CD3.9	Ashford Borough Council Climate Change Strategy (June 2022)
CD3.10	Ashford Borough Council Corporate Plan 2022 – 2024
CD3.11	Kent Downs AONB Management Plan (2021 – 2026)
CD3.12	Overarching National Policy Statement for Energy (EN-1)
CD3.13	National Policy Statement for Renewable Energy Infrastructure (EN-3)
CD3.14	International Paris Agreement 2016
CD3.15	The Clean Growth Strategy: Leading the Way to a Low Carbon Future (2018)
CD3.16	Energy White Paper Powering our Net Zero Future (December 2020)
CD3.17	HM Treasury National Infrastructure Strategy 2020
CD3.18	British Energy Security Strategy (April 2022)
CD3.19	Powering up Britain Policy Paper (March 2023)
CD3.20	Consultation Draft National Planning Policy Framework (2024)
CD3.21	Written Ministerial Statement made by the Deputy Prime Minister on 30 July 2024
4 Landscape and Visual	
CD4.1	Landscape Institute and Institute of Environmental Management and Assessment – Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
CD4.2	National Landscape Character Areas [Extracts] – NCA 119, NCA 120, NCA 121 and NCA 123
CD4.3	Kent County Council (2004) The Landscape Assessment of Kent
CD4.4	Jacobs (2009) Rural Fringes Landscape Character Assessment for Ashford Borough Council
CD4.5	Studio Engleback (2005) Urban Fringes Landscape Character Study for Ashford Borough Council [Extracts – LCS 01, 02, 03, 04, 07, 08, 11, 12 and 15]
CD4.6	Kent Downs AONB Landscape Character Assessment Update 2020 (Revised and Published 2023) [Extracts – Sections 1.0 - Introduction, 4.0 – LCA 1C, 7.0 – LCA 2C, 11.0 – LCA 4C and 13.0 – LCA 5B]
5 Heritage	
CD5.1	Historic England’s GPA3 The Setting of Heritage Assets (2017)
CD5.2	CiFA Standards and Guidance for Historic Environment Desk Based Assessments (2020)
6 Archaeology	
CD6.1	CiFA Standards and Guidance for Geophysical Survey (2020)

7 Ecology and Ornithology	
CD7.1	Miguet et al., 2013
CD7.2	Browne et al., 2000
8 Planning Appeal Decisions and Court Judgments	
CD8.1	<i>Bedford Borough Council v Secretary of State for Communities and Local Government & Nuon UK Ltd</i> [2013] EWHC 2847 (Admin)
CD8.2	<i>The Forge Field Society and others v Sevenoaks District Council</i> [2014] EWHC 1895 (Admin)
CD8.3	<i>R (James Hall and Company Ltd) v City of Bradford MDC</i> [2019] EWHC 2899 (Admin)
CD8.4	Cutlers Green Lane appeal decision (APP/C1570/W/23/3319421)
9 Legislation	
CD9.1	Conservation of Habitat and Species Regulations 2017 (as amended)
CD9.2	Town and Country Planning (Environmental Impact Assessment) Regulations 2017
CD9.3	Climate Change Act 2008
10 Statements of Case	
CD10.1	Statement of Case on behalf of the Appellant
CD10.2	Statement of Case on behalf of the Council
11 Statement of Common Ground	
CD11.1	Statement of Common Ground agreed between the Appellant and the Council on 25 November 2024
12 Evidence of the Appellant	
CD12.1	
CD12.2	
CD12.3	
CD12.4	
CD12.5	
13 Evidence of Ashford Borough Council	
CD13.1	
CD13.2	
CD13.3	

CD13.4	
CD13.5	
14 Other Correspondence/Documents	
CD14.1	Start Letter dated 21 October 2024
CD14.2	Pre-Case Management Conference Note dated ...