



Department for
Communities and
Local Government

Our Ref: APP/J0350/W/16/3144685

Mrs Gemma Newell
Squire Patton Boggs (UK) LLP
6 Wellington Place
Leeds
LS1 4AP

19 December 2016

Dear Mrs Newell

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL MADE BY
SIRIUS SBC RENEWABLES
LAND AT BATH ROAD, POYLE, BERKSHIRE SL3 0HY
APPLICATION REF: P/10012/005**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Cullum J A Parker BA(Hons) MA MRTPI IHBC, who made a site visit on 10 May 2016 into your client's appeal against the decision of Slough Borough Council to refuse planning permission for the construction and operation of a solar photovoltaic farm, including fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins, in accordance with application ref: P/10012/005, dated 3 July 2015.
2. On 9 August 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for significant development in the Green Belt.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to dismiss the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case the development plan consists of the Slough Local Development Framework Core Strategy 2006-2026 (2008) (CS) and the saved policies of the Local Plan for Slough (2004) (LP). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR10.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'). He has also had regard to the Written Ministerial Statement, dated 25 March 2015, which amongst other matters, concerns solar energy and the protection of the local and global environment.
8. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal schemes or their settings or any features of special architectural or historic interest which they may possess.

Main issues

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR57-59.

The Green Belt

10. The Secretary of State notes that the main parties agree that the proposal would represent inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (IR57).
11. For the reasons given in IR60-67 the Secretary of State agrees with the Inspector that the proposal would erode the openness of the Green Belt. He also agrees the proposal would fail to assist in safeguarding the countryside from encroachment and to check the unrestricted sprawl of large built-up areas and would result in harm to the Green Belt. He agrees with the Inspector that the Framework is clear in that substantial weight should be given to any harm to the Green Belt. His view, like the Inspector's, is that the proposal would fail to comply with Core Policy 1 and Core Policy 2 of the CS, both of which seek to maintain the existing areas of Green Belt within the Borough of Slough, and also with the policies of the Framework (IR62 and IR67).

Strategic Gap and countryside impact

12. The Secretary of State has carefully considered the Inspector's analysis at IR68-70 and agrees that the development plan policy requires that the development needs to be 'essential' in the Strategic Gap to be found acceptable (IR69). The Secretary of State agrees with the Inspector's finding that beyond locally contributing to the national emissions reduction targets, there appears to be no local requirements to have the solar farm in this location above any other. Like the Inspector the Secretary of State concludes

that the potential suitability of the site over others does not equate to an 'essential' need for the development to be placed in this location (IR70).

13. For the reasons given in IR71-72 the Secretary of State also considers that the proposal would represent an urbanising feature within what are currently open fields and would close the strategic gap by introducing built form and man-made structures. He agrees with the Inspector that the proposed development would have an adverse impact on the Colne Valley Regional Park and undermine the aims and purpose of the Strategic Gap (IR72).

Other considerations

14. For the reasons given in IR73-75 the Secretary of State agrees with the Inspector that Core Policy 8 of the CS (Sustainability and the Environment) should be considered broadly consistent with the Framework and afforded appropriate weight.
15. The Secretary of State agrees with the Inspector that the development would assist in meeting national targets that seek to reduce carbon emissions in order to tackle climate change (IR77). He has noted the Inspector's view that the contribution is limited due to the relatively small size and scale of the proposed appeal site and the amount of energy it could create but considers that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and so is inclined to afford greater weight to this benefit than the Inspector.
16. Like the Inspector, the Secretary of State considers that the fact that the appeal site comprises Grade 4 agricultural land puts it at the poorer end of the ALC spectrum and is a modest benefit in favour (IR78).
17. The Secretary of State agrees that, while the life span of the panels would be around 25 years this does not negate the fact that for quarter of a century the proposal would conflict with the Green Belt aims of openness and protecting the countryside from encroachment (IR79).
18. The Secretary of State agrees with the Inspector's assessment regarding the matters covered at IR80-82 and IR84 and does not consider any of these matters should weigh in favour of the proposal. He also agrees in relation to Colnbrook Conservation Area that the absence of harm does not equate to a benefit in favour (IR83).
19. Like the Inspector, the Secretary of State cannot be certain that a 'formal agreement' with the Parish Council for financial contributions for a 'community cohesion' officer and other community projects would meet the tests set out in Paragraph 204 of the Framework. (IR85 and IR94) and so does not afford this factor any weight.

Planning conditions

20. The Secretary of State has given consideration to the Inspector's analysis at IR86-93, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

Planning balance and overall conclusion

21. The Secretary of State has given careful consideration to the Inspector's conclusions at IR95-98. He agrees with the Inspector that the proposal would represent inappropriate development in the Green Belt that would reduce its openness, and would fail to check unrestricted urban sprawl and assist in safeguarding the countryside from encroachment and applies substantial weight to this harm. He considers that there would also be harm to the intrinsic character of the countryside and area generally in the form of the Colne Valley Regional Park and the Strategic Gap. Against this he considers the benefit arising from the generation of renewable energy should be afforded significant weight and the use of agricultural land of lesser value lends modest weight in favour of the proposal. However, he also agrees with the Inspector that the other considerations in favour of the proposal would not clearly outweigh the substantial harm to the Green Belt and concludes that the very special circumstances necessary to justify the proposal do not exist in the case. The Secretary of State also concludes that the proposal would conflict with Core Policy 1, Core Policy 2 and Core Policy 8 of the CS and (Saved) Policy CG1 of the LP, and would also be at variance with the policies of the Framework as a whole.

Formal decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction and operation of a solar photovoltaic farm, including fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins, in accordance with application ref: P/10012/005, dated 3 July 2015.

Right to challenge the decision

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

24. A copy of this letter has been sent to Slough Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

Steve Jewell

Steve Jewell
Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Date: 5 October 2016

Town and Country Planning Act 1990

Slough Borough Council

Appeal by Sirius SBC Renewables

Site visit made on 10 May 2016

Bath Road, Poyle, Berkshire, SL3 0HY

File Ref: APP/J0350/W/16/3144685 APP/J0350/W/16/3144685

ABBREVIATIONS/GLOSSARY

ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
Appellant	Sirius SBC Renewables
BMVAL	Best and Most Versatile Agricultural Land
CS	Slough Local Development Framework Core Strategy 2006-2026 (2008)
Council / Local Planning Authority (LPA)	Slough Borough Council
Framework	The National Planning Policy Framework
Guidance	The national Planning Practice Guidance
LVIA	Land Visual Impact Assessment
LP	Local Plan for Slough (2004)
MWp	MegaWatt peak
Officer Report	Officers Report Recommending refusal (undated) Appendix 7
Parish Council	Colnbrook with Poyle Parish Council
Statement of Case	Appellant's statement of case, February 2016

File Ref: APP/J0350/W/16/3144685

Bath Road, Poyle, Berkshire, SL3 0HY (Easting 502994, Northing 176592)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Sirius SBC Renewables against the decision of Slough Borough Council.
- The application Ref P/10012/005, dated 3 July 2015, was refused by notice dated 26 November 2015.
- The development proposed is construction and operation of a solar photovoltaic farm, including fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins.

Summary of Recommendation: That the appeal be dismissed.

Preliminary Matters

Reason for refusal

1. The Council refused planning permission for the following reasons: -
 - 1) *The proposed development would cause significant harm to this fragmented and vulnerable part of the Green Belt. It has not been demonstrated that the benefits from the proposed solar farm are sufficient to constitute the very special circumstances which are necessary to overcome the presumption against inappropriate development in the Green Belt as set out in the National Planning Policy Framework and Core Policy 2 (Green Belt and Open Spaces) of the Slough Local Development Framework, Core Strategy 2006-2026, Development Plan Document, December 2008.*
 - 2) *The proposed development would result in loss of important open land within the Strategic Gap at Colnbrook and Poyle. It has not been demonstrated that it is essential for the proposed solar farm to be in this location and so it is contrary to Core Policy 2 (Green Belt and Open Spaces) and Core Policy 1 (Spatial Strategy) of the Slough Local Development Framework, Core Strategy 2006-2026, Development Plan Document, December 2008.*
 - 3) *The proposed development would result in the further urbanisation and loss of countryside recreation within the Colne Valley Regional Park. It has not been demonstrated that it is essential for the proposed solar farm to be in this location and so it is contrary to Core Policy 2 (Green Belt and Open Spaces) of the Slough Local Development Framework, Core Strategy 2006-2026 and Policy CG1 (Colne Valley Park) of The Adopted Local Plan for Slough 2004.*

Determination of the appeal

2. The Secretary of State has directed that, in exercise of his powers under Section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, as amended, that he shall determine the appeal as it involves proposals for significant development in the Green Belt, as referred to in the letter dated 9 August 2016 sent to the main parties by the Planning Inspectorate.

Site visit

3. On 10 May 2016, I made an unaccompanied visit to the site and the surrounding area.

The proposal

4. The development seeks the erection of rows of photovoltaic (PV) panels on an east-west axis across two fields. These would have a total capacity of 4.5MW peak, which could power around 1000 homes per year and offset about 2000 tonnes of carbon dioxide (CO²) per annum¹.
5. The solar panels would be around 1 metre off the ground, with a total height of 3 metres above ground level. These would be angled between 10° and 35° and set apart by about 4 metres. The proposal would also see the erection of fencing and ancillary structures to support the operation of the PV panels, with the grid connection point located in Bath Road, near to the site access.

The site and surroundings

6. The appeal site is located to the southeast of Colnbrook and to the southwest of Poyle. The site covers about 10.90 hectares. The site was historically used as part of a wider sand and gravel extraction operation, known as Poyle Quarry². These uses ceased on the appeal site in about 1988, with it currently used for the growing of bio-fuel crops. Given the rural characteristics of the site at the time of my inspection, it is reasonable to consider that the site is in the countryside for planning policy purposes.
7. The first field, nearest to Bath Road and Poyle Road, has a boundary formed by a mixture of trees and shrubs along Poyle Road, with a gap in the tree line along parts of this boundary. The boundary with Bath Road is screened with a mixture of low lying plants and deciduous trees, which provide a greater level of screening as viewed from nearby residential dwellings and the highway; although the level of screening would alter as the leaf coverage falls in the autumn and winter months. Located to the south of the appeal site is a hotel, with trees along its shared boundary with the appeal site roughly to the north. In terms of the second field, to the west of the hotel, this is further away from the public highway with an earth bund providing a screen at street level from nearby residential dwellings to the west of the hotel.
8. The site falls within Flood Risk zones 1 and 3 as defined on the current Environment Agency Flood Map³.
9. The appeal site is located within the Metropolitan Green Belt⁴.

Planning Policy

10. The development plan for the appeal site area comprises *Slough Local Development Framework Core Strategy 2006-2026* (2008) (herein the CS) and

¹ Appendix 7, Officer Report, paragraph 2.2

² Officer Report, paragraph 3.1

³ Officer Report, paragraph 3.4

⁴ Officer Report, paragraph 3.5, and the appellants Statement of Case paragraph 7.7

the saved policies of the *Local Plan for Slough*⁵ (2004) (herein the LP). The policies referred to include⁶: -

- (a) **Core Policy 1 (Spatial Strategy):** *'All development will have to comply with the Spatial Strategy set out in this document. All development will take place within the built up area, predominantly on previously developed land, unless there are very special circumstances that would justify the use of Green Belt land. A strategic gap will be maintained between Slough and Greater London...'*
- (b) **Core Policy 2 (Green Belt and Open Spaces):** *'The existing areas of Metropolitan Green Belt will be maintained ... Development will only be permitted in the Strategic Gap between Slough and Greater London and the open areas of the Colne Valley Park if it is essential to be in that location...'*
- (c) **Core Policy 8 (Sustainability and the Environment):** *'All development in the Borough shall be sustainable...and address the impact of climate change. All developments should, where feasible, include measures to:...(c) Generate energy from renewable energy resources...'*
- (d) **(Saved) CG1 (Colne Valley Park):** *'Proposals for development within countryside or other open areas in the Colne Valley Park will not be permitted unless they...'*

The Case for the Council (Slough Borough)

Principle of proposed solar farm development

11. The Framework establishes a presumption in favour of sustainable development. The requirement to move to a low carbon economy is also highlighted in the Framework; firstly as a dimension of sustainable development, secondly as a core planning principle, thirdly in building a strong competitive low carbon economy, and fourthly in that LPAs should not require applicants for energy development to demonstrate the need and by recognising that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.
12. The Guidance states that planning has an important role in the delivery of new renewable and low carbon energy infrastructure. Planning considerations when considering photovoltaic systems, put simply, include siting systems in situations where they can collect the most energy from the sun, the need for sufficient area of solar modules to produce the required energy output, the effect on a protected area such as an Area of Outstanding Natural Beauty (AONB) or other designated areas, and the colour and appearance of the modules⁷.
13. The panels, or 'modules', in this case would be south facing and can maximise energy output, are not in an AONB, and would be anti-reflective. The proposal would therefore comply with this aspect of the Guidance. They would also offset

⁵ As per the SoS CLG Direction letter dated 25 September 2007 to Slough Borough Council

⁶ Policy extracts provided in '*italics*'

⁷ Officer Report, Paragraph 9.4, and the Guidance, Ref ID: 5-001-20140306 and 5-012-20140306

approximately 2000 tonnes of carbon dioxide per annum⁸, which would assist in reaching national targets.

Impact on Green Belt

14. The proposal would constitute inappropriate development within the Green Belt, as defined in Paragraphs 89 and 90 of the Framework, as it does not fall into any category of not inappropriate development. Paragraphs 87 and 88 of the Framework explain that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
15. In terms of this part of the Green Belt, potential developments such the Slough International Freight Exchange (SIFE), the western rail connection to Heathrow, the Smart Motorway project and the proposed third runway at Heathrow all make Colnbrook and Poyle one of the most fragmented and vulnerable parts of the Green Belt. This means that any further development within this area will compound the overall harm and add to the cumulative impact upon the area. The proposal covers around 10.9 hectares which is a significant size for a development in the Green Belt and the period of up to 25 years should be considered as though having a permanent impact on the Green Belt rather than temporary.
16. Paragraph 79 of the Framework sets out the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The site is currently used as open farmland with no development and so the openness of the Green Belt is not currently compromised. The proposal would impact on openness by erecting 3 metre high PV panels over an area of approximately 10 hectares, and enclosed by a 2.4 metre high fence. There would also be two porta-cabin buildings, being roughly 2.5 metres high and measuring 4 by 12 metres, which would be enclosed with 2 metre high palisade fences. These would be located within a 17 by 17 metres compound and an additional building of 3 metres by 8 metres⁹.
17. The Council does not agree that the visibility of a development is the proper test of openness. Put simply, you cannot make an inappropriate development in the Green Belt acceptable by screening it from view. The proposal would therefore conflict with Green Belt policy, which is to keep the Green Belt permanently open.
18. Purposes of including land in the Green Belt are set out in paragraph 80 of the Framework. The solar farm would fail to prevent urban sprawl as part of the site is situated on road frontages with proposed development spanning two directions along local roads on a corner site. It would lead to the merging of Poyle and Colnbrook, as the site would no longer be able to provide an important separating feature between the residential areas to the north and the industrial and commercial development to the south. Although the site had a previous use for minerals extraction, it has now been restored to agricultural land. The

⁸ Officer Report, paragraph 9.7

⁹ Officer Report, paragraph 9.14

erection of a solar farm would completely change the character of the land and cause harm to the third purpose of Green Belt as set out in paragraph 80 of the Framework. In terms of preserving the setting and special character of historic towns, the application site forms an undeveloped stretch of land to the east of the conservation area, which helps define its edge. As a result the proposal would result in some harm to the fourth purpose. It is not considered that the proposal would conflict with the fifth purpose in terms of assisting with urban regeneration as set out in Paragraph 80 of the Framework.

19. In terms of possible benefits, the appellant points to the creation of 3.8MWp of renewable energy which would generate enough power for 1000 homes¹⁰. But it is not considered that these general benefits are sufficient to overcome the specific harm to the Green Belt in this location. The appellant submitted an alternative sites assessment, which considered 1,195 other sites; 58 of which were considered to have significant potential and 18 of which now have planning permission¹¹. Whilst the appellant considers that they have only identified sites where stringent planning criteria have been met, it is not considered that the current proposal meets the necessary stringent planning criteria to allow it to be approved in this area. The proposal would therefore result in significant harm to the Green Belt and it has not been demonstrated that there are any very special circumstances which overcome the presumption against inappropriate development in the Green Belt.

Strategic Gap

20. The policies concerning the Strategic Gap (Core Policy 1 and Core Policy 2 of the CS) have been thoroughly tested and found to add additional policy restraint over and above that of the Green Belt. This was tested in the High Court as part of the Judicial Review of planning permission for the strategic rail freight exchange at Radlett near St Albans¹².
21. The main purpose of the Strategic Gap is to prevent the coalescence of Slough with Greater London so as to maintain their separate identities. This should be achieved not only by keeping land open within the Strategic Gap, but also to maintain the perception of there being some openness between the two main settlements. This is especially important along road corridors as there is almost continuous urban development from Slough up to the M25. The northern side of the road opposite the appeal site is already built up with houses, so any development on the southern side of this road will have a particular impact on the retention of a gap.
22. It is accepted that the solar panels would be well screened, but there will still be some glimpses of the development and people will be aware that it is there. The perception of a gap between the settlements would therefore be reduced as a result of the urbanisation of this corner of the site. The proposal would therefore cause significant harm to the maintenance of the Strategic Gap. What is more, it is not considered that there is an essential need to be in this location; either in terms of operational needs or to serve the local population. Slough already has a

¹⁰ Officer Report, paragraph 9.23

¹¹ Officer Report, paragraph 9.24

¹² Officer Report, paragraphs 9.26 to 9.29 – The specific review number is not referenced at this section of the officer report

significant electricity capacity and the output in this case would be relatively modest, so it cannot be justified as being essential.

23. Although alternative sites have been considered, which show limited other potential sites within the Borough, the Strategic Gap policy is a high, though not unachievable, bar to development. The site should have been excluded under the stringent planning criteria when the appellant was considering other sites. In view of the harm that the proposal would cause to the Strategic Gap, it is considered that it should be refused on the grounds that it has not been demonstrated that it is essential to be in this location.

Landscape and Visual Impact

24. The outcome and results of the Landscape and Visual Impact Assessment (LVIA) have been taken into consideration as part of the planning process. However, it is considered that the benefits of the solar farm do not weigh up against the harm caused to the Green Belt, the Strategic Gap and the Colne Valley Park as a result of the proposal.

Other Matters

25. The Council's Highway and Transport Officer has assessed the proposal and raised no objection to the proposal subject to the provision of further information¹³.
26. Natural England have raised no objection to the proposal and given the mitigation set out within the Ecology Report (and its implementation), no objections are raised on ecology grounds¹⁴.
27. In terms of flood risk and contaminated land, no objections are raised by the Environment Agency or the council's Land Contamination Officer, subject to the use of planning conditions. What is more, no objections are raised in respect of noise and no further archaeological work is merited in this case given the development does not justify searching them out¹⁵.
28. The applicant has advised that they have offered a 'Community Benefit Fund' that would be held in trust and managed by Colnbrook with Poyle Parish Council, which could be spent on social and environmental projects within the Parish. The offer would see an annual payment of £14,000 for the life of the solar farm (RPI-linked). It was understood that such an agreement would be a private one between the developer and the Parish Council once consent is issued and the solar farm energised. However, any such agreement would not be secured via a Section 106 agreement, as the Council had not been a party to any such discussions.

The Case for the Appellant (Sirius SBC Renewables)

The Framework and the Guidance

29. The Framework sets out a presumption in favour of sustainable development, which should be seen as a golden thread running through decision-taking. One

¹³ Officer Report, paragraph 11.3

¹⁴ Officer Report, paragraph 12.5

¹⁵ Officer Report, paragraphs 13.1 to 13.3

of the core planning principles is to support the transition to a low carbon future. The proposal would provide a source of renewable energy and decision-taking should be approached in a positive way to foster the delivery of sustainable development¹⁶.

30. In particular, Paragraph 97 of the Framework indicates that local planning authorities (LPA) should adopt positive strategies to promote energy from renewable and low carbon sources. Core Policy 8 of the CS is considered to fall well below the requirement of the Framework to adopt a positive strategy, particularly when read in the context of the Guidance¹⁷, which includes requiring the LPA to consider what the potential, range of technologies, costs, impacts and legal requirements may be. To this extent, the appellant submits that the adopted development plan is out of date for the purpose of Paragraph 14 of the Framework, and therefore the weight which can be applied to the policies within the adopted development plan is limited¹⁸.
31. The Framework also seeks to protect the Green Belt and elements of many renewable energy projects will comprise inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In such cases, developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources¹⁹.

The Green Belt

32. The appellant accepts that the proposed development constitutes inappropriate development in the Green Belt, under the provision of the Framework²⁰.
33. Reference is made to another appeal decision²¹ concerning the Slough International Freight Exchange (SIFE); (the Secretary of State will recall this was dismissed on 12 July 2016, following his recovery of that appeal). The principal point is that the appellant confirms that each application should be considered on its own merits, and the fragmented nature of the metropolitan Green Belt in this location should not be used as justification for overstating the level of effect arising from this proposal.
34. The appeal site is located within a generally enclosed area of Green Belt, with the site boundaries mostly comprising dense vegetation. What is more, a substantial haul road has been consented²², and this would be located across the site to provide access to the allocated mineral extraction site at Poyle Quarry. The solar panels would have a maximum height of 3 metres, with an installation height most likely of 2.2 metres, and cover 2.57 hectares of a total 10.9 hectare site. The ground will be re-seeded to pasture land, which will be retained around and under the panels.

¹⁶ With particular reference to paragraphs 14, 93, 97 & 98

¹⁷ Statement of Case, page 14, paragraph 5.4, Guidance Ref 5-003-20140306

¹⁸ Statement of Case, pages 14 & 15, paragraph 5.5

¹⁹ With particular reference to Paragraphs 79 to 91

²⁰ Statement of case, page 22, paragraph 7.10

²¹ Ref: APP/J0350/A/12/2171967

²² See Appendix 9

35. Case law, in the form of Timmins v Gedling Borough Council [2014] EWHC 654, is referred to by the appellant, who considers that it sets out ‘a distinction between visibility and openness. The decision states that any construction in the Green Belt harms openness, irrespective of its actual level of visual impact given the presence of built form. However, the decision also goes on to provide that visibility and openness are linked and that visual impact, or lack thereof, can be taken into consideration in relation to mitigating any impact on openness. It follows that lack of visual impact can be considered, amongst other factors, to amount to very special circumstances.’²³ In this respect, the site is considered to be well screened, and the proposal low rise and visibly unobtrusive. As such, the proposed development would only generate limited ‘harm’ to the openness of the Green Belt. Such harm would also be limited by the removal of the panels and associated equipment and reinstatement of the land at the end of the panels’ lifespan.
36. The proposal would not result in urban sprawl or coalescence²⁴. In terms of countryside encroachment, the appeal site was formerly used for mineral extraction, and then landfill before its current use as agricultural land. As such, the appeal site has limited agricultural use due to the quality of restoration soil above the in-situ waste. The appeal site also benefits from an extant planning permission for an access road to the existing minerals area to the west of Site A and to the north of Site B. Solar developments have been accepted within countryside locations in both planning applications and appeals²⁵.
37. The Landscape Visual Impact Assessment (LVIA) concludes that the landscape effects as a result of the solar farm are generally restricted to the site area and the immediately adjoining areas only. It is therefore the appellant’s position that the proposal would not encroach on the countryside and would not generate any harm to the Green Belt in this respect. There would also be no impact on the nearby Conservation Area or the historic core of the village of Colnbrook given the physical separation and lack of inter-visibility.
38. The level of harm identified within the Officer’s report is contested²⁶. The proposal is of a temporary nature, would not affect the fundamental aim or five purposes of the Green Belt designation, and will have minimal visibility from the surrounding area.

Any other harm – including Strategic Gap and Colne Valley Park

39. The concept of the Strategic Gap is contained within Core Policy 1 and Core Policy 2 of the CS. Put simply, this seeks to maintain a strategic gap between Slough and Greater London, and that development will only be permitted in this gap if essential to be in that location. The Policies themselves do not provide detail as to what constitutes the term ‘essential’.
40. The LPA suggested that it is necessary to demonstrate that alternative sites were considered, even though this is not a requirement of the Framework²⁷. This

²³ Statement of Case, page 22, paragraph 7.10

²⁴ Statement of Case pages 24 and 25, paragraphs 7.13 and 7.16

²⁵ Statement of Case, page 23 & 24, paragraph 7.13

²⁶ Statement of Case, page 27, paragraph 7.21

²⁷ Paragraph 98 The Framework refers

survey found that the appeal site is the only suitable location within the Borough, and given the infinite need for renewable energy can be considered as 'essential in that location'²⁸. What is more, the site would not result in the closing of the gap between Slough and Greater London.

41. The open areas of Colne Valley Regional Park are not defined, but the Policy imposes the same restraints as the Strategic Gap. The proposal would also meet the criteria of (Saved) Policy CG1 of the LP, through the use of additional screening. The proposal would also have a negligible effect on the landscape quality of the area, as identified within the LVIA. What is more, there is currently no public access on the appeal site and therefore the proposal would not result in the loss of countryside recreation opportunities.

Benefits and balance

42. The renewable energy nature of the proposal would generate electricity equivalent to powering 1000 homes and contribute towards national renewable energy targets. The Government has a commitment to solar development and has identified it as playing an important part in a balanced UK energy policy. The Written Ministerial Statements on *Solar Energy* (dated 1 November 2013 and 22 April 2014), the response to the *IPCC Report on Climate Change* (March and April 2014), and *On Planning* (March 2015) all point in this general direction. The most recent progress report on the Renewable Energy Directive, published in January 2016, reports that in 2014 renewable energy accounts for just 7% of energy demand. Solar energy can provide a source of energy when there is an overall issue in terms of energy supply and security within the UK.
43. The land is currently used for growing of bio-fuel crops, and is considered by the appellant to fall into Agricultural Land Classification (ALC) Grade 4, which falls outside of the Best and Most Versatile Agricultural Land (BMVAL)²⁹. The classification of the land is not disputed by the Council. Paragraph 112 of the Framework seeks to direct necessary development to areas of poorer quality land in preference to areas of higher quality.
44. The proposal will only be present for a finite period of about 25 years, after which the land would be reinstated to its former use. The appellant is in the process of entering into a formal agreement with Colnbrook with Poyle Parish Council to provide a financial contribution upon commissioning of the proposed development. This contribution could be used to fund employment of a community cohesion officer and other community projects and this is considered a further benefit of the scheme.
45. The Council does not have a positive strategy for renewable and low carbon energy supply and therefore only limited weight can be afforded to the development plan in accordance with the presumption in favour of sustainable development set out in Paragraph 14 of the Framework. Notwithstanding this, the proposal accords with Policies Core Policy 1 and Core Policy 2 of the CS and (Saved) Policy CG1 of the LP.

²⁸ Statement of Case, page 31, paragraph 7.35

²⁹ Annex 2: Glossary, the Framework

46. The proposal would result in significant benefits which would outweigh the limited harm to the Green Belt, and these are considered to amount to the very special circumstances that justify inappropriate development in the Green Belt.

Written Representations at application stage

Colnbrook with Poyle Parish Council

47. The Parish Council has raised concerns regarding the visual aspects of the development on neighbouring residential properties and businesses. Screening formed of mixed broadleaf and evergreen tree/hedge buffer strip should be planted along the internal boundaries. Also queried the height of the panels at 3m tall and if this is fixed.

The Environment Agency

48. The Agency originally raised an objection, but after reviewing Stratus Environmental ref SBC1044 dated 25 September 2015 from the appellant, remove objection subject to the inclusion of a number of conditions.

Natural England

49. NE has no objection in respect of statutory nature conservation sites. No assessment made in respect of protected species.

Heathrow Airport Limited

50. HAL has no safeguarding objections. Observations made on the public safety zone: the site lies within and the use of cranes for construction will require the consulting of the aerodrome before erecting any cranes.

The National Farmers Union (NFU)

51. The planning sub-committee of the local NFU branch at Marlow considered the application and confirms their support for the proposals. In seeking to make this business resilient to future risks they suggest that the proposals are precisely the type of development that the Framework seeks to encourage.

Thames Water

52. It is the responsibility of the developer to make proper provision for drainage to the ground, water courses or a suitable sewer. The developer should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. Prior approval is required from Thames Water to discharge into the public sewer. Thames Water will not allow any building within 5 metres of large water mains.

Berkshire Archaeology

53. Berkshire Archaeology is in agreement that previous gravel extraction is likely to have largely removed any archaeological interest in this application site, and on this basis no further archaeological work is merited should permission be granted.

Spelthorne Borough Council

54. No objections.

The Royal Borough of Windsor and Maidenhead

55. No objection.

Inspector's Conclusions and Recommendation

56. The references in square brackets [x] are to the principal paragraphs of my report of the cases and other information from where my conclusions are drawn.

The main considerations

57. The main parties agree that the proposal would represent inappropriate development within the Green Belt by reference to paragraph 91 of the Framework. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such very special circumstances may include the wider environmental benefits associated with the increased production of energy from renewable sources. [14, 32, 33]
58. The appellant concedes that the proposal would result in harm to the Green Belt; both in terms of definitional harm, it being inappropriate development, and also a loss of openness. However, they consider that the latter is mitigated by the possible use of screening and reinforcement of existing boundaries. To the contrary, the Council does not consider that the use of screening would hide the fact that the proposal would erode the openness of the Green Belt. The site is also located within the Strategic Gap and the Colne Valley Regional Park; both of which are subject to additional planning policy restrictions. [32, 37]
59. Against this background, the main considerations, in my view, are the effect of the proposal on the purposes of the Green Belt including openness and permanence, whether the location within the Strategic Gap and Colne Valley Regional Park is acceptable in principle, and lastly whether any harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposed development. [14, 32]

The Green Belt

60. The appeal site is located to the southeast of Colnbrook and to the southwest of Poyle, with the site historically used as part of a wider mineral extraction operation. These uses have now ceased on the appeal site, with it currently used for the growing of bio-fuel crops. Given the rural characteristics of the site and its current use for agriculture, the site should be considered as in the countryside for planning policy purposes. The appeal scheme seeks the erection of rows of photovoltaic (PV) panels on an east-west axis across two fields. These would have a total capacity of 4.5MW peak and have a total height of 3 metres. There would also be the erection of fencing and ancillary structures to support the operation of the PV panels. [4, 5, 6, 7, 16, 34]
61. Views of the solar panels in the first field, (that nearest to Bath Road and Poyle Road), would be possible from Poyle Road, with gaps in the tree line along parts of this boundary. The boundary with Bath Road is screened with a mixture of low lying plants and deciduous trees, which can provide a greater level of screening as viewed from nearby residential dwellings and the public highway. Although the level of screening would alter as the leaf coverage falls in the autumn and winter months. Views would also be possible from the hotel located to the south

of the appeal site; albeit the trees along that boundary would also provide some screening of the first field. In terms of the second field, to the west of the hotel, this is further away from the public highway with an earth bund effectively providing a screen at street level from nearby residential dwellings to the west of the hotel. As such, views into the second field from the public realm would be severely restricted. [6, 7, 18, 34]

62. The CS predates the Framework, having been adopted in 2008. Nonetheless, both Core Policy 1 and Core Policy 2 of the CS, seek to maintain the existing areas of Green Belt within the Borough of Slough. In this respect, they broadly reflect the Policies of the Framework, which include at Paragraph 79 its permanence. It can therefore be afforded the 'greater' weight as envisaged by Paragraph 215 of the Framework. Furthermore, Paragraph 91 of the Framework states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. [10, 20, 39]
63. The Framework makes clear at Paragraph 79 that the essential characteristics of the Green Belt are their openness and permanence, so any reduction in these characteristics would also be harmful. In this case, the scale and location of the proposal, with rows of solar panels and fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins, would make it a conspicuous development within two open fields. As such, the proposal would erode the openness of the Green Belt. What is more, these structures would be visible from parts of Poyle Road, the hotel to the south of the site and also from nearby residential dwellings on Bath Road. This prominence would serve to exacerbate and emphasise its intrusive and incongruous appearance in the Green Belt in these open agricultural fields. [17, 18]
64. The appellant considers that the proposal could be screened so as to reduce its visual impact. They point to case law in the form of *Timmins*, which suggests that visibility and openness are linked, and that visual impact, or lack thereof, can be taken into consideration in relation to mitigating any impact on openness. However, when read fully, this case law also found that '*Any construction in the Green Belt harms openness...irrespective of its actual level of visual impact.*'³⁰ The proposed development here would be visible from parts of the public realm, even with some additional landscaping along the Poyle Road boundary and the enclosed nature of some parts of the site, and the proposal would still lead to a reduction in the openness of the Green Belt – both visually and in terms of an increase in built form on the appeal site with the erection of a number of structures in two open fields. [35]
65. The appellant points to the fact that the proposal would not see the coalescence of the settlements of Colnbrook and Poyle. Whilst this is true in the sense that the proposal does not seek residential development, the number of structures proposed would introduce man-made infrastructure into an area where any existing intrusions are sporadic and isolated. As such, the proposal would fail to assist in safeguarding the countryside from encroachment and to check the

³⁰ *Timmins v Gedling Borough Council* [2014] EWHC 654

unrestricted sprawl of large built-up areas, which are two of the five purposes Green Belt serves, as listed in Paragraph 80 of the Framework. [16, 18, 36, 37]

66. The proposal does not necessarily conflict with other purposes that the Green Belt serves, as set out in Paragraph 80 of the Framework. For example, the proposal would not necessarily assist in urban regeneration or prevent neighbouring towns merging into each other. However, the five purposes of Green Belt are not a pick-&-mix list; if a proposal fails even one of these purposes, then it fails to achieve purposes that Green Belt serves. Accordingly, by failing in two of the purposes in this case, it would result in harm to the Green Belt through its conflict with Policy. [18, 36, 37, 38]
67. The Framework is clear in that substantial weight should be given to any harm to the Green Belt. In this case, the proposal would result in definitional harm as inappropriate development, harm to openness and harm to at least two of the purposes of Green Belt designation. Accordingly, in my view, it would fail to comply with Core Policy 1 and Core Policy 2 of the CS and also the Policies of the Framework in this regard. [19, 30, 38]

Strategic Gap and countryside impact

68. The appeal site is located within the Strategic Gap, for which Core Policy 1 and Core Policy 2 of the CS identify that development will only be permitted if it is 'essential' to be in that location. No definition of 'essential' is given within the policy itself. Nonetheless, the supporting text explains that '*essential development that cannot take place elsewhere will be permitted in this location*'. The appellant undertook an assessment of other sites within the Borough for use in connection with solar energy creation. This found very limited opportunities for such purposes within the Borough. Paragraph 98 of the Framework indicates that '*local planning authorities should not require applicants for energy development to demonstrate overall need for renewable or low carbon energy*'. However, the assessment of other sites in this case is not intended to demonstrate the overall need for renewable or low carbon energy, but instead establish the availability of possible sites within the Borough for renewable energy generation. [20, 21, 22, 23, 39, 40, 41]
69. The appellant considers that they have demonstrated that the site is the most suitable site for a solar farm, and in their view this means that the proposed development is essential in this location. However, it is not clear as to why a site within the Green Belt and Strategic Gap, both of which are subject to development restrictive policies, was not discounted at an earlier stage. In any case, the development plan policy requires that the development needs to be 'essential' in the Strategic Gap to be found acceptable. [23, 40, 41]
70. In this case, the national strategies to meet climate change targets are acknowledged, (and considered in greater detail below), but there remains an onus to demonstrate the essential need of this development in this Strategic Gap location. Beyond locally contributing to the national emissions reduction targets, there appears to be no local requirements to have the solar farm in this location above any other, for example to power a particular building or business. In this sense, the 'essential' locational requirement of the policy should be read plainly, and the potential suitability of the site over others does not equate to an 'essential' need for the development to be placed in this location. [23, 41]

71. The Council have also raised concerns that the proposal would lead to further urbanisation and loss of countryside within the Colne Valley Regional Park. This area is not defined geographically in local plan terms. However, as considered in relation to Green Belt matters, the proposal would represent an urbanising feature within what are currently open fields. What is more, both the coverage and the form of the development, together with ancillary structures, mean that the proposed development would close the strategic gap by introducing built form and man-made structures. [23, 41]
72. The proposal would therefore fail to recognise the intrinsic character and beauty of the countryside, which is one of the core planning principles planning should seek set out at Paragraph 17 of the Framework. In the absence of a demonstrable 'essential' need as required by the development plan policy and the harm to the character and beauty of the countryside, the proposed development would have an adverse impact on the Colne Valley Regional Park and undermine the aims and purpose of the Strategic Gap. [23, 24, 41]

Other considerations

73. The appellant considers that the development plan is silent and absent on a 'positive strategy to promote energy from renewable and low carbon sources' as sought by Paragraph 97 of the Framework. More specifically, they consider that Core Policy 8 of the CS does not reflect the Framework, or the Planning Practice Guidance (the Guidance) section on *'How can local planning authorities develop a positive strategy to promote the delivery of renewable and low carbon energy?'*³¹ In reality, a development plan adopted in 2008 is unlikely to reflect the requirements sought in documents dated 2012 and 2014 respectively. Indeed, the Guidance refers to what local planning authorities should do when drawing up a Local Plan, rather than what an existing Local Plan should already have in terms of content. [29, 30, 45]
74. More to the point, Core Policy 8 seeks to ensure *that 'All development in the Borough shall be sustainable, of a high quality design, improve the quality of the environment and address the impact of climate change' and 'that all development will respect its location and surroundings'*. Whilst not setting out a positive strategy in the way or level of detail envisaged by current guidance, the policy nonetheless reflects the Framework at Paragraph 98, which recognises that *'even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and that local planning authorities should approve the application if its impacts are (or can be made) acceptable'*. [10, 11]
75. In such circumstances, Core Policy 8 of the CS should be considered as broadly consistent with the Framework and should be afforded appropriate weight. What is more, given my conclusions in respect of the harm to the Green Belt, the Strategic Gap and the Colne Valley Regional Park, the proposal would fail to respect its location and surroundings. The lack of a positive strategy to promote energy from renewable and low carbon sources, as envisaged by the Guidance should not, therefore, be a factor that weighs significantly in favour of the appeal scheme. [10, 11]

³¹ Paragraph: 003 Reference ID: 5-003-20140306 Revision Date 06 03 2014

76. The appellant points to national and international documents, which indicate that there may be a shortfall in the provision of renewable energy generation against targets. They have also indicated that solar energy can provide a source of energy when there is an overall issue in terms of energy supply and security within the UK. Taken as a whole, the general thrust of both national and local planning policy is to support the use of renewable energy technologies, such as solar panels, to contribute to the UK's target of reducing its CO² and other greenhouse gas emissions. [12, 42]
77. In this particular case, the solar PV panels would generate between 3.8MWp and 4.5MW peak. The appellant suggests this could power roughly 1000 homes and see the reduction of CO² by about 2,000 tonnes annually over the 25 year period of the panels. The development would therefore assist in meeting national targets that seek to reduce carbon emissions in order to tackle climate change. However, this should be calibrated by the fact that the contribution towards the overall UK target is limited by the relatively small size and scale of the proposed appeal site and the amount of energy it could create when compared to the overall energy demand. The wider environmental benefits associated with the increased production of energy from renewable sources lends modest weight in favour of the proposal. [19]
78. The land is currently used for growing of bio-fuel crops, and is considered by the appellant to fall into ALC Grade 4, which falls outside of the BMVAL. Paragraph 112 of the Framework seeks to direct necessary development to areas of poorer quality land in preference to areas of higher quality. Whilst 'poorer quality' is not defined, the fact that the appeal site comprises Grade 4 agricultural land puts it at the poorer end of the ALC spectrum. The use of an area of poorer quality agricultural land rather than higher quality is a modest benefit in favour of the proposed development. [43]
79. The life span of the panels would be around 25 years, after which the solar panels could be removed. The appellant consider that this means the panels are temporary and reversible and that this is a positive benefit of the proposal. However, this does not negate the fact that for nearly a quarter of a century the proposal would conflict with the Green Belt aims of openness and protecting the countryside from encroachment. It would also be in direct conflict with the aim of Green Belt Policy to keep land permanently open. As such no weight is merited. [44]
80. Other examples of solar panel developments found acceptable are cited. However, these relate to different local authority areas such as the Royal Borough of Windsor and Maidenhead, Sedgemoor, and Rutland for example. The local policy context in those locations will be different to that here, and no detailed information on these cases is provided. In terms of the proposed SIFE, which was dismissed, the full details of this case are not provided. However, this is also of a different nature to the scheme before me. Such considerations should be attributed no more than minimal weight. [33, 36]
81. Reference is made to an extant permission (ref SBC1044/2/05) for a new access road to the existing nearby minerals extraction. It is unclear as to how a scheme for an access road provides justification for the erection of rows of solar panels, fencing, internal service tracks, transformer and inverter stations, cabling, CCTV, landscaping, substations and ancillary cabins, across two fields, whereas the

road, according to the submitted drawings, would in the main be located to the south of the first field. The difference in the nature of that scheme to that here are significant. This factor should not weigh in favour of the proposal. [36]

82. The LVIA indicates that any landscape impacts would be local and immediately adjacent to the site only. However, it would erode the intrinsic character of this part of the countryside by introducing an uncharacteristic addition within this countryside area when viewed from these locations and the nearby properties and highway. The limited impact on the wider landscape does not, in my view, override the harm in terms of failing to recognise the intrinsic character and beauty of the countryside. This factor should not weigh in favour of the proposal. [24, 37]
83. The Colnbrook Conservation Area is located some distance to the northwest of the appeal site, with the housing development off Coleridge Crescent providing a clear break between this and the appeal site. The proposal would not, therefore, fail to preserve or enhance the character or appearance of the conservation area, with any impact being neutral at worst. The absence of harm in this respect does not equate to a benefit in favour of the proposal. [18, 37]
84. The Environment Agency 'removed' their objection to the scheme, subject to the inclusion of a number of conditions. These suggested conditions refer to matters such as flood risk, buffer zones and pollution protection. Whilst such conditions may have merit when assessed against Paragraph 206 of the Framework and the Guidance on the use of planning conditions, they would not address or overcome the harm identified to the Green Belt or Strategic Gap. This factor should not, therefore, weigh in favour of the appeal scheme. [27]
85. The appellant has identified that they are willing to enter into some form of agreement with the Parish Council. This is considered in the section on '*Conditions and Obligations*' [94]. Nonetheless, given my conclusions at that point, this factor should be awarded no weight in the overall balance. [28, 44]

Conditions and Obligations

86. The appellant,³² the Council³³ and the Environment Agency³⁴ have suggested planning conditions in the event the appeal was allowed and planning permission granted. The conditions, together with any necessary revision, are set out in full in Appendix A to this report. These are considered in light of Paragraph 206 of the Framework and the Guidance in respect of the use of planning conditions. I have considered those set out in Appendix 13 first, then all other suggested conditions.
87. Condition 1 specifies the time period for development to be commenced, which would be three years. Condition 2 is a time limiting condition requiring removal after 25 years. Condition 3 sets out provision for the restoration of the land no later than 12 months prior to the end of the permission, but should be reworded so as to take account of any earlier cessation of renewable energy use. Such rewording is suggested by the Council.

³² See Appendix 13

³³ Slough Borough Council's comments on the statement of case by Sirius Renewables April 2016, section 3, pages 10 to 12

³⁴ Letter dated 29 October 2015 from the Environment Agency

88. Condition 4 indicates a maximum height of 3 metres for the solar panels and ancillary infrastructure and this would assist in reducing visual impact from the proposal. Similarly, Condition 5 requiring exact details of locations, design and specification and colour of panels would assist in reducing any visual impact. The routing to construction traffic, the submission of a construction management plan and a construction method statement, as set out in Conditions 6, 7 and 8 would help protect the wider environment and highway safety.
89. Conditions 9 and 10, relating to carrying out the development in accordance with the Flood Risk Assessment and works for treating and removing suspended soil would aid in reducing the risk of flooding and help protect the local environment. These would also reflect the conditions sought by the Environment Agency.
90. Condition 11 suggested by the LPA reflect advice from the Environment Agency in terms of the creation of a buffer zone from the Poyle Channel. However the main parties agree that the site is located further away than the 8 metre wide buffer zone suggested and therefore the suggested condition is unnecessary. Taking into account the Framework and Guidance, I agree with the main parties.
91. Condition 12 refers to fencing, which should be carried out in accordance with drawing SBC1044/2/04. It is suggested that this could be incorporated into another condition (No 5) requiring details of fencing. This would appear to be a pragmatic manner in which to deal with such matters and permit the Council to consider the design of any such fencing.
92. Given the degree of importance the appellant has placed upon being able to screen or hide the development from view, a condition requiring a landscaping scheme, its implementation and retention would appear reasonable.
93. Lastly, neither party has suggested a condition referring to the submitted drawings. Unhelpfully, the plans or drawings which the Council considered are not listed on the decision notice dated 26 November 2015, nor are the plans listed within the appellant's statement of case. Eleven drawings have been submitted which show what is proposed, and I have listed these within Appendix A of this report. Although best placed after Condition 1, for ease of reference I have placed this condition at the end of the list of conditions.
94. In terms of obligations, it is suggested in the appeal statement that a formal agreement with the Parish Council for financial contributions for a 'community cohesion officer' and other community projects would be forthcoming at the commissioning stage. The appellant asserts that this is a factor which would create significant socio-economic benefits to local residents. Paragraph 204 of the Framework is clear in that planning obligations should only be sought where they meet three tests; necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. I have not been provided with any detailed explanation as to the relevance of this 'formal agreement' in planning terms for a scheme that seeks the erection of solar panels. In such circumstances, I cannot be certain that any such agreement would meet the tests set out in Paragraph 204 of the Framework. This factor should be awarded no weight at all in the overall planning balance. [28, 44]

The planning balance

95. The final balance consists of applying substantial weight to the harm to the Green Belt, and considering any other harm, against other considerations which may amount to very special circumstances.
96. The appellant has indicated willingness to the imposition of a condition requiring the removal of the panels after their useful life (normally around 25 years). However, the proposal would nonetheless represent inappropriate development in the Green Belt that would reduce its openness, and would fail to check unrestricted urban sprawl and assist in safeguarding the countryside from encroachment; which are two of the five purposes Green Belt serves. Paragraph 87 of the Framework is clear in that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, openness is an essential characteristic of the Green Belt, so a reduction in that quality would also be harmful. There would also be harm to the intrinsic character of the countryside and area generally in the form of the Colne Valley Regional Park and the Strategic Gap.
97. Against this, the benefits arising from the generation of renewable energy and reduction in CO² emissions and other greenhouse gas emissions and the use of agricultural land of lesser value, cumulatively lend modest weight in favour of the proposal. However, the Framework sets out that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
98. In this case, the other considerations in favour of the proposal would not clearly outweigh the substantial harm to the Green Belt. I therefore conclude that the very special circumstances necessary to justify the proposal do not exist in this case. What is more, the proposal would conflict with Core Policy 1, Core Policy 2 and Core Policy 8 of the CS and (Saved) Policy CG1 of the LP, and there are no material considerations that warrant a decision other than in accordance with it. The proposed location in this case, within the Strategic Gap and Colne Valley Regional Park, for this development should be considered unacceptable in principle. It would therefore be in conflict with Core Policy 1 and Core Policy 2 of the CS and (Saved) Policy CG1 of LP. It would also be at variance with the Policies of the Framework when read as a whole.

Recommendation

99. I recommend that the appeal be dismissed.
100. However, the Secretary of State may find that the other considerations suggested by the appellant amount to the very special circumstances required justifying inappropriate development in the Green Belt. He may also conclude that these very special circumstances also overcome the other harm identified to the Strategic Gap and Colne Valley Regional Park. If the Secretary of State is minded to disagree with my recommendation, Annex A lists the conditions that I consider should be attached to any permission granted.

Cullum J A Parker

INSPECTOR

Annex A – List of suggested conditions to impose

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The solar panels and related equipment (including buildings and fencing) shall be permanently removed from the site and the land shall be returned to solely agricultural use within 25 years and 6 months from the date that construction is completed or within 6 months following electricity ceasing to be exported from the site if in advance of that date. Within 6 months of the date that construction is completed a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. The decommissioning and restoration of the site shall be carried out in accordance with the approved scheme.
- 3) No later than 12 months prior to the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include a programme of works to remove the solar panels, related equipment and buildings, and shall be fully implemented within 12 months of the expiry of this permission.
- 4) The solar panels and ancillary structures (but excluding the buildings shown on the submitted drawings) shall not exceed three metres in height above ground level.
- 5) Prior to the erection of the solar panels, and any associated equipment, exact details of their location, size, specification and colour shall be submitted to and approved in writing by the local planning authority. Further, full details of the height, material and design of fencing shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) The routing of construction vehicles to and from the site shall follow the routing provided within drawing SBC1056/3/01, or any subsequent variation to that plan which has first been submitted to and approved in writing by the local planning authority.
- 7) Prior to the commencement of any development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented as approved thereafter.
- 8) Prior to the commencement of any development a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The approved plan shall be implemented as approved thereafter.
- 9) The development shall be carried out in accordance with the Flood Risk Assessment undertaken by Hydrock, reference R/C151287/0001.03, dated July 2015 and supplementary note undertaken by Stratus ref SBC1044, dated 25 September 2015 and the following mitigation measures detailed within them:
 - i) Mounting installation to all panels shall either be by the 'Treesystem' design or supported by ballast blocks the top level of which is flush with the existing ground level; and,

- ii) Panels elevated a minimum of one metre above ground level.

The mitigation measures shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangement embodied within the scheme or within any other period as may be subsequently agreed in writing by the local planning authority.

- 10) The development hereby permitted shall not be commenced until such a time as a scheme to treat and remove suspended soils from surface water run-off during construction works has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

- 11) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- i) a statement setting out the design objectives and how these will be delivered;
- ii) earthworks showing existing and proposed finished levels or contours;
- iii) means of enclosure and retaining structures;
- iv) hard surfacing materials;
- v) minor artefacts and structures;
- vi) proposed and existing functional services above and below ground;
- vii) retained historic or other landscape features and proposals for restoration, where relevant;
- viii) lighting, floodlighting and CCTV; and,
- ix) an implementation and maintenance programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 12) The development hereby permitted shall be carried out in accordance with the following approved plans:

SBC1044/2/01 Revision O, SBC1044/2/02 Revision O, SBC1044/2/03 Revision O, SBC1044/2/04 Revision O, SBC1044/2/05 Revision O, SBC1044/2/06 Revision O, SBC1044/2/07 Revision O, SBC1044/2/08 Revision O, SBC1044/2/09 Revision O, SBC1044/2/10 Revision O, and SBC1044/2/11 Revision O.



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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