

# PLANNING COMMITTEE AGENDA

**Tuesday, 5th September 2023 at 7.15pm**

**Council Chamber, Braintree District Council, Causeway House,  
Bocking End, Braintree, CM7 9HB**

**THIS MEETING IS OPEN TO THE PUBLIC**

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<http://www.braintree.gov.uk/youtube>

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**Members of the Planning Committee are requested to attend this meeting to transact the business set out in the Agenda.**

Councillor J Abbott

Councillor J Beavis

Councillor L Bowers-Flint

Councillor T Diamond

Councillor M Fincken

Councillor J Hayes

Councillor D Holland (Vice-Chairman)

Councillor A Hooks

Councillor A Munday

Councillor I Parker (Chairman)

Councillor F Ricci

Councillor P Schwier

Councillor G Spray

Substitutes: Councillor K Bowers, Councillor M Green, Councillor P Heath, Councillor L Jefferis, Councillor J Pell, Councillor G Prime, Councillor S Rajeev, Councillor W Taylor, Councillor M Thorogood, Councillor P Thorogood, Councillor J Wrench, Councillor B Wright, Vacancy.

Apologies: Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by 3pm on the day of the meeting.

Any Member who is unable to attend a meeting is able to appoint a Substitute. Written notice must be given to the Governance and Members Team no later than 24 hours before the start of the meeting.

D GASCOYNE  
Chief Executive

## **INFORMATION FOR MEMBERS - DECLARATIONS OF MEMBERS' INTERESTS**

### **Declarations of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI), or Non-Pecuniary Interests (NPI)**

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

### **Public Question Time - Registration and Speaking**

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public may ask questions or make a statement to the Committee on matters listed on the Agenda for this meeting.

All questions or statements should be concise and should be able to be heard within the 3 minutes allotted to each speaker.

Anyone wishing to ask a question or make a statement is requested to register their interest by completing the Public Question Time registration [online form](#) by **midday on the second working day** before the day of the meeting.

For example, if the meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday). The Council reserves the right to decline any requests to register to speak if they are received after this time.

When registering for Public Question Time please indicate whether you wish to attend the meeting 'in person', or to participate remotely. People who choose to join the meeting remotely will be provided with the relevant link and joining instructions for the meeting.

Please note that completion of the on-line form does not guarantee you a place to speak during Public Question Time. You will receive email notification from the Governance Service confirming whether your request is successful.

Confirmed registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have three minutes each to ask their question or to make a statement. The order in which registered speakers will be invited to speak is: members of the public, Parish Councillors/County Councillors/District Councillors/Applicant/Agent.

The Chairman of the Committee has discretion to extend the time allocated to registered speakers and to amend the order in which they may speak.

In the event that a registered speaker is unable to connect to the meeting, or if there are any technical issues, their question/statement may be read by a Council Officer.

Further information on Public Question Time is available on the [Council's website](#).

## **Health and Safety**

Anyone attending a meeting of the Council is asked to make themselves aware of the nearest available fire exit. In the event of an alarm sounding, you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point where you should stay until it is safe to return to the building.

## **Substitute Members**

Only the named Substitutes on this Agenda may be appointed by a Member of the Committee to attend in their absence. The appointed Substitute becomes a full Member of the Committee with participation and voting rights.

## **Documents**

Agendas, Reports and Minutes may be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

## **Data Processing**

For further information on how the Council processes data, please see the Council's Privacy Policy:

[https://www.braintree.gov.uk/info/200136/access\\_to\\_information/376/privacy\\_policy](https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy)

## **Mobile Phones**

Please ensure that your mobile phone is switched to silent during the meeting in order to prevent disturbances.

## **Webcast and Audio Recording**

Please note that this meeting will be webcast and audio recorded. You may view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-tv/core/portal/home>. The meeting will also be broadcast via the Council's YouTube Channel.

## **Comments and Suggestions**

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended you may send these to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

**1 Apologies for Absence****2 Declarations of Interest**

To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 15th August 2023 (copy to follow).

**4 Public Question Time**

Only Registered Speakers will be invited by the Chairman to speak during public question time.  
Please see the agenda notes for guidance.

**5 Planning Applications**

To consider the following planning applications.

**5a App. No. 21 03735 FUL - Land West of Park Road, RIVENHALL** **6 - 68**

**5b App. No. 23 00803 FUL - Coggeshall Hall Farm Yard, Coggeshall Road, KELVEDON** **69 - 84**

**5c App. No. 23 01488 VAR - Land adjacent to Butlers Wood and Waldergrave Wood, West of A131 Sudbury Road, TWINSTEAD** **85 - 109**

**6 Urgent Business - Public Session**

To consider any matter which, in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

**7 Exclusion of the Public and Press**

To agree the exclusion of the public and press for the consideration of any items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.

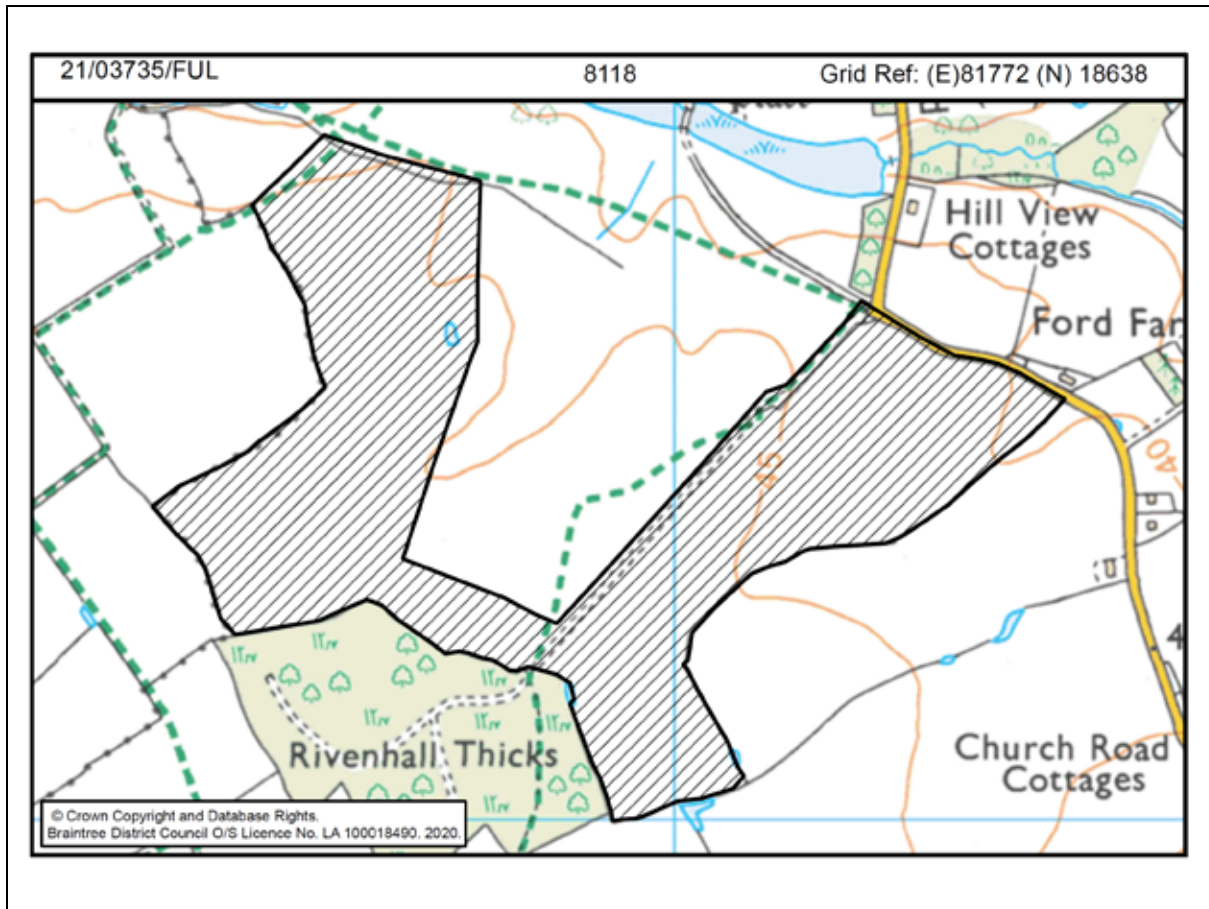
*At the time of compiling this agenda there were none.*

**8 Urgent Business - Private Session**

To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 5th September 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	21/03735/FUL
<b>Description:</b>	Installation of solar farm and associated development.
<b>Location:</b>	Land West Of Park Road, Rivenhall
<b>Applicant:</b>	Novus Renewable Services Limited, The Old Plumbers Shop, Yanworth, GL54 3LQ
<b>Agent:</b>	Miss Helen Donnelly, Corylus Planning & Environmental Ltd, The Old Dairy, Yanworth, Cheltenham, GL54 3LQ
<b>Date Valid:</b>	21st January 2022
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Reason(s) for Refusal Submitted Plan(s) / Document(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Alison Rugg For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2522, or by e-mail: <a href="mailto:alison.rugg@braintree.gov.uk">alison.rugg@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting</li> </ul>



	<p>understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 21/03735/FUL.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013-2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 The site is located approximately 0.2km to the south/south-west of the village of Silver End. The site is approximately 31.1ha in size and is made up of arable agricultural land, open in nature. There are a number of designated and non-designated heritage assets in close proximity to the site, namely Grade I, Grade II\*, Grade II Listed Buildings and a designated Schedule Ancient Monument. There are a total of four Public Rights of Way (PRoWs) which bisect the site in places or pass in very close proximity to the site. Rivenhall Thicks ancient woodland is located to the south west of the site.
- 1.2 The application seeks full planning permission for the installation of a solar farm and associated development generating up to 22.5 MW of renewable energy. The Applicant has not described the application as a temporary use, however it is clear from the application documents that the Applicant intends for a temporary use of 40 years and therefore the application has been assessed on this basis.
- 1.3 The solar panels and associated infrastructure which includes a substation, transformers, spare container units, CCTV and fencing would occupy an area of 31.1ha of Best and Most Versatile Agricultural Land (Grade 2 and 3A). There is no battery storage proposed on site. Vehicle access is currently via an existing farm track off Church Road to the north of the site. Mitigation planting is proposed around the majority of the site.
- 1.4 The Council's Historic Buildings Consultant and Heritage England raised concerns with the application in relation to the impact on the designated and non-designated heritage assets within close proximity to the site. It is considered the proposal would cause less than substantial harm to the setting of St Marys Church (Grade I Listed) and the setting of Rivenhall Place (Grade II\* listed).
- 1.5 The proposal would also have a negative impact on the character and appearance of the existing landscape which would be significant due to the level of encroachment and intrusion of built development into the countryside. There would also be a significant impact on the character and views from the PRoWs within the site, namely PRoW 105\_11 and 108\_66.
- 1.6 Notwithstanding the inarguable benefits that this proposal could have to clean energy generation, the public benefits of the proposal do not outweigh the adverse impacts. Many of the concerns raised in this report are shared by the Parish Council and residents of the local community who have raised objection to the application.
- 1.7 The proposal is contrary to the Development Plan. Furthermore, the application of policies of the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

- 1.8 An appeal against the non-determination of the application has been lodged and therefore a formal decision can no longer be issued. The purpose of this report is to set out how the application would have been determined, which in turn will determine the Council's position at the forthcoming appeal.
- 1.9 It is recommended that the proposed development should be refused planning permission.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Major planning application for a Renewable Energy Scheme.

2.2 An appeal against the non-determination of the application has been lodged and therefore a formal decision can no longer be issued. The purpose of this report is to set out how the application would have been determined, which in turn will determine the Council's position at the forthcoming appeal.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site subject to this full planning application is shown by the land edged red on the site location plan. The site is located within the parish of Rivenhall, and the western boundary of the site is adjacent to the parish of Silver End.

5.2 The site is located approximately 0.2km to the south/south-west of the village of Silver End and approximately 0.8km to the north-west of the village of Rivenhall. Witham lies 1.5km to the south and Braintree is approximately 5km to the north-west. The closest residential properties are those located on the adjacent side of Church Road and Park Road, to the north of the application site, and Rivenhall Place, which abuts the northern boundary.

5.3 The site is approximately 31.1ha in size and is made up of arable agricultural land, open in nature. The site is irregular in shape and represents a horseshoe alignment, effectively split into two compartments (referred to in this report as compartment 1 and 2 - Compartment 1 being to the north-west and Compartment 2 to the south-east). Land levels vary within the site but there is generally a gentle fall across the whole site from west to east, with the landform steepening slightly towards the northern and eastern boundaries. A very shallow dry valley extends through the northern part of intervening land between the two compartments.

5.4 The land use of the site and local area is predominantly arable farming, although there is some permanent pasture within the lower lying valleys and across much of the parkland immediately to the north of the site. The

grazing of horses is prevalent within fields on the fringes of Silver End village to the north. The surrounding landscape is punctuated with blocks of woodland, including a relatively extensive block of deciduous woodland to the immediate south-west of the site known as 'Rivenhall Thicks'.

- 5.5 Hedgerow or woodland enclosure is prevalent on the majority of the external site boundaries apart from one completely open and unenclosed boundary adjoining Church Road to the north-east. Also, the eastern and north-western boundaries of Compartments 1 and 2 respectively are unenclosed, currently being part of the larger arable field.
- 5.6 There are no designated heritage assets located within the site, but a number are located within 1.5km of the site. The closest of these being Rivenhall Place, a Grade II\* Listed Building which is located directly to the north of the site. Ford Farm and Rivenhall Cottages, both Grade II Listed, are located on the adjacent side of Church Road, in close proximity to the site. St Mary and All Saints Church, a Grade I Listed and a Scheduled Ancient Monument comprising the Roman Villa, Anglo Saxon Hall, cemetery and church site, is located approximately 700m to the south east of the site. The Silver End Conservation Area is located approximately 580m to the north-east of the application site.
- 5.7 The Agricultural Land Classification, based on soil samples assessed by the Applicant, is Grade 2 and 3A, which all represents Best and Most Versatile (BMV) agricultural land.
- 5.8 In terms of local designations, the site is adjacent to Rivenhall Thicks, an Ancient Woodland protected by a Tree Preservation Order, located to the immediate south of the site. Rivenhall Thicks is also a designated Local Wildlife Site (Bra169). The application site sits within land that is designated as a Mineral Safeguarding Area. There are no County Wildlife Sites or any other local environmental designations nearby. The site is not adjacent to any statutory or non-statutory landscape designations and the Environment Agency Flood Risk Map identifies the whole of the site lying within 'Flood Zone 1'.
- 5.9 There are a total of four Public Rights of Way (PRoWs) which bisect the site in places or pass in very close proximity to the site. A PRoW (numbered 105\_11) enters the site at the northern tip of compartment 2 and runs along the north western site boundary, both inside and outside the site before entering Rivenhall Thicks and joining up with adjacent PRoWs (105\_62). PRoW 105\_25 runs to the north of the site, immediately adjacent to the northern boundary of compartment 1 and within a small area within the red line to the north eastern corner of compartment 2. PRoW 105\_66 runs through the north western corner of compartment 1 within the red line and continues south outside of the site.
- 5.10 There is an overhead 33KV electricity line which crosses the site, east to west, towards the south of the site.

5.11 Vehicle access is currently via an existing farm track off Church Road to the north of the site. The track runs from north to south. Church Road is a classified road with a 60mph speed limit.

## 6. PROPOSAL

6.1 The application seeks full planning permission for the installation of a solar farm and associated development.

6.2 The Applicant has not described the application as a temporary use, however it is clear from the application documents that the Applicant intends for a temporary use of 40 years and therefore the application has been assessed on this basis.

6.3 The solar panels would be located within the west and east compartments (1 and 2 respectively) of the site and have a maximum height above ground of approximately 3.1m and an angle of tilt approximately 20-25 degrees. The panels would sit on a piled metal frame approximately 1m from the ground, portrait view, with the total length of the panel measuring approximately 4.8m. The length of rows vary throughout the site, but the width and height remain the same, that being a total width of 4.8m and maximum height from ground level of 3.1m.

6.4 The solar panels would face south and would be finished in a non-reflective dark colour. Electricity from the panels would be converted from DC to AC by string inverters to be sited to the rear of the panels. There would be 6 pairs of transformers located on the western and southern boundary, along with 2 spares container stores for compartment 2, and 5 pairs of transformers and 1 spares container store on the western boundary of the compartment 1. The housing for transformers would measure 6.1m in length, 2.4m in width and 2.6m in height. The spares container stores measure 10.5m in length, 3.5m in width and 3m in height. Both are metal structures which would be finished in a colour such as dark green or grey.

6.5 The substation would be located within compartment 1, on the western boundary, and electricity from the solar farm would be exported to the Grid via a connection to the existing overhead electricity line. The substation would be approximately 3.6m in height from ground level, with a small roof mounted satellite dish extending a further 1m in height. A shipping container would be sited in close proximity to the substation within compartment 1 and would be used for the storage of spare components and equipment required for management and maintenance. The proposed solar farm does not include battery storage.

6.6 The installation would be fenced to a maximum height of 2 metres with deer fencing, including small openings to allow wildlife to travel into and across the site. The site would be monitored by close circuit television (CCTV) cameras mounted on poles, 53 in total at a height of 3m above ground. No external lighting is proposed.

- 6.7 Scrub screening and a 0.4m bund is proposed along the eastern boundary of both compartments. The areas of planting range in width from 4.5m to 17m. The scrub screening consists of a mix of dogwood, common hazel, common hawthorn, crab apple, elder, blackthorn and guelder rose. Existing vegetation would also provide screening within the site, particularly on the western boundary of compartment 1. A block of woodland planting has been proposed to the north of the compartment 2 which fronts Church Road. An enhanced sward area has been proposed on the southern boundary, between the solar panels and Rivenhall Thicks. The sward area measures approximately 23m-31m in width. Soil bunds are proposed in between the hardstanding and the solar panels on the western edge of the compartment 1.
- 6.8 A 4m wide internal hardstanding road, utilising the existing access point from Church Road, runs north to south on the western edge of compartment 2, to the southern part of the site. It then runs east, accessing the southern area of the compartment 2, and west to access compartment 1, running along the western boundary. Once operational, the solar farm would require 1-2 visits per month on average for maintenance. It is envisaged that such trips will be made by cars or small/medium sized vans.
- 6.9 It is proposed that a temporary compound area is located adjacent to the north of compartment 2, adjacent to Church Road. Following the completion of construction, which is anticipated to be completed within approximately 16 weeks, the temporary compound would be dismantled, and the area would be incorporated within the solar farm.
- 6.10 The whole development would be contained within existing field boundaries and no hedgerows, trees, or other boundary vegetation would be removed to undertake the construction works.
- 6.11 The operational period of the solar farm would be 40 years from the first export of electricity. At the end of this period, the site would be decommissioned. All structures and hard surfacing would be removed, and the land would be restored to agricultural use. It is estimated that the Proposed Development would generate up to 22.5 MW of renewable energy, which the Applicant has stated could provide approximately enough energy to power over 5,756 homes a year. The proposed solar farm would save approximately 5533 tonnes of CO<sub>2</sub> per annum (based on Government Guidance 'Greenhouse Gas Reporting: Conversion factors 2020'). The capacity of a solar farm refers to the % of the time when the solar farm is operating at full capacity. Solar panels operate in daylight and even on a cloudy day they will still generate electricity.

## 7. ENVIRONMENTAL IMPACT ASSESSMENT

- 7.1 An Environmental Impact Assessment (EIA) Screening Opinion was requested from the Council on 18th June 2021 by the Applicant.

7.2 A formal response from the Council issued on 7th July 2021 confirmed that an Environmental Impact Assessment was not required to be submitted in support of the proposal (Application Reference 21/01998/SCR).

## 8. SUMMARY OF CONSULTATION RESPONSES

8.1 Two consultations were carried out, the second consultation was undertaken following the submission of revised plans and documents which sought to address a number of design and layout concerns raised by Officers, residents and consultees, namely the addition of a landscape bund and the set back of panels to the PRoW 105\_11 to the north. A summary of the latest consultation responses to the proposal are set out below.

### 8.2 Anglian Water

8.2.1 No comments received.

### 8.3 Essex Fire Services

8.3.1 Access - Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. The site design should include a safe access route for fire appliances to manoeuvre within the site including the implementations of the below:

- Access routes and hard standings should be capable of sustaining a minimum carrying capacity of 18 tonnes.
- Openings or gateways should not less than 3.1 metres.
- The overall width of the access should be not less than 3.7 metres.
- Minimum turning circle 17.8 metres.

8.3.2 Water Supplies - The Architect or Applicant is reminded that additional water supplies for firefighting may be necessary for this development.

8.3.3 Sprinkler Systems - There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.



#### 8.4 Health and Safety Executive (HSE)

8.4.1 Solar Farms are usually not a relevant development in relation to land-use planning in the vicinity of major hazard sites and major accident hazard pipelines. This is because they do not, in themselves, involve the introduction of people into the area. HSE's land use planning advice is mainly concerned with the potential risks posed by major hazard sites and major accident hazard pipelines to the population at a new development.

#### 8.5 Historic England

8.5.1 The LVIA has confirmed that the proposed development will affect the setting of Rivenhall Place and to a lesser degree the Church of St Mary's and All Saints. We accept that the setting of the scheduled monument is unlikely to be affected. It appears unlikely that there would be views of the solar farm from the churchyard. For the church, the impact would be through loss or alteration to glimpses of the tower against the distant Great Braxsted Ridge, available from the public right of way crossing the rising ground of the site. The deterioration of this view would be of low, but not nil, detriment to the significance of the church.

8.5.2 There are very limited views which allow both church and Rivenhall Place to be seen together. The present appearance of the church owes much to Lord Western of Rivenhall Place, commemorated in a memorial in the church. These shared views, contribute to the significance of both assets would be obscured by the development.

8.5.3 The arrangement of house and landscape owes much to Humphrey Repton, who famously sought to maximise the extent and quality of views irrespective of boundary lines. One requisite set out by Repton was the removal or concealment of all objects 'incapable of becoming proper parts of the scenery'.

8.5.4 Though his landscape design was only partially implemented at Rivenhall, the changes that were made to the house and estate (possibly including clearance of farm buildings south of the property) highlight the importance of the landscape setting to the Grade II\* listed building. In 1848 White's Directory of Essex describes Rivenhall Place as "a stuccoed mansion standing on an eminence, commanding a fine view of the park and adjacent country".

8.5.5 It is clear from the amended application that the proposed solar farm would feature within the borrowed landscape setting. The appearance of the site has changed over the past two centuries, but it remains legible as an agricultural landscape within intentional views from Rivenhall Place. The degree of harm is therefore lower than it would be in a landscape of preserved appearance but would still result in harm to the significance of the Grade II\* Rivenhall Place.

- 8.5.6 In our view the proposal would result in less than substantial harm to St Mary and All Saints Church by decreasing the ability for the church to be appreciated in its panoramic landscape setting from a publicly accessible route. We accept that the degree of harm would be towards the lower end of the scale. It is also our view that the proposal would harm the significance of Rivenhall Place by failing to sustain the character of its important landscape setting. This would also be termed less than substantial harm, towards the lower end of the scale.
- 8.5.7 It is for your authority to weigh the harm against public benefit, ensuring that the conservation of these heritage assets is given the very great weight required. Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of Paragraphs 199, 200, 202 of the NPPF.
- 8.6 National Grid
- 8.6.1 No comment confirmed. We are aware of the solar farm proposals, our current preferred draft alignment over sails the site with the proposed pylons lying outside the area. Our understanding is that it is possible for the two developments to co-exist, on that basis we have no comment about the proposals.
- 8.7 National Highways
- 8.7.1 No Objection.
- 8.8 Natural England
- 8.8.1 No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.
- 8.8.2 From the description of the development this application may impact on 'best and most versatile agricultural. We consider that the proposed development is unlikely to lead to significant long term loss of best and most versatile agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas.
- 8.8.3 However, during the life of the proposed development it is likely that there will be a reduction in agricultural productivity over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the

siting of large scale solar farms on previously developed and non-agricultural land.

8.9 North East Essex Badger Group

8.9.1 There should be no disturbance to protected species.

8.10 Ramblers Association

8.10.1 There was only ONE orange site notice in place yesterday, Monday 7 March on the footpaths alongside and in the area of the proposed solar farm. Specifically there were NO orange site notices at: (i) the NE of the proposed site at the bend on Park Road / Church Road which is the eastern termination of Rivenhall public footpaths 11 and 25 [PROW 105\_11 and 105\_25]. Grid ref (5)822 (2)187. This bend is also the proposed construction site access. (ii) the south end of the proposed site at Rivenhall Thick on Rivenhall public footpath 11 [[PROW 105\_11]. Grid ref (5)818 (2)182. (iii) Silver End public footpaths 16, 18 & 19 [PROWs 108\_16, 108\_18 and 108\_19]. These footpaths pass close to the west of the site forming part of the local footpath network. Silver End footpath 19 becomes Rivenhall footpath 66 at the Parish boundary. For example at Grid ref (5)813 (2)188.

8.10.2 It is good to see the public footpaths shown on the plans but I could not find a plan that clearly shows the interaction of Rivenhall footpaths 11 and 25 [PROW 105\_11 and 105\_25] with the proposed primary site & construction site access at the bend on Park Road / Church Road. I could also not see a plan showing sight lines at this bend - now and in say 10 years time when the proposed hedge along Church Road has grown up. A plan(s) showing these details is requested. B. Please advise where on the site the sub-station will be located. Also where the connection to the grid will run.

8.10.3 Walked route Rivenhall footpath 11 [PROW 105\_11] is on the west side of the eastern compartment 2. i. Would the walked grassy track be inside or outside the boundary fence and hedge? ii. What is the proposed route of the internal vehicular access on the west side of Compartment 2 compared with the current grassy track? iii. A plan showing how footpath 11 would interact with the proposed vehicular access track and fencing at the north end of Rivenhall Thicks / Access Gate 1 (primary) is requested. For photos see LVIA photo viewpoints 6, 7 and 8.

8.11 The Gardens Trust

8.11.1 The medieval manor of Rivenhall had a large park located to the north of it. In the 16th century, the seat of the manor was moved into the park where a Tudor brick mansion was built by the Wiseman family. In the second half of the 17th century, Sir William Wiseman created a formal landscape round the house, whilst the parkland beyond was laid out on geometric principles with a 'goosefoot' plan. In the late 18th century, Lord Western remodelled the house and park, advised by Humphrey Repton whose design saw the

house better related to the landscape, with lakes and a bridge to the south of it. The park by this time was reduced in size and most extensive on the south side of the house. Repton's Red Book showing design options are in the Essex Record Office. Of his work, there survive the lakes, the Grade II listed bridge over them, and some veteran trees. This is a recognisably designed landscape which provides a delightful setting for the Grade II\* house.

8.11.2 Rivenhall Place is included in EGT's Inventory of Historic Designed Landscapes in the Braintree District. As such the landscape is an undesignated heritage asset which is a material consideration in making planning decisions. The proposed development occupies a field to the south of Rivenhall Place. In pre-application consultation, it was acknowledged that there would be an impact on Rivenhall Place and so the centre of the field directly opposite the house has been omitted from the scheme. This would not, however, leave the solar farm completely concealed in views from the house. Furthermore, its presence would be only too conspicuous to the many people who use the footpaths in this field leading to Rivenhall Thicks. Indeed, the best views of the house and its setting are from these footpaths. These would be compromised by the solar farm, with corresponding harm to both the heritage asset and public amenity. Other negative aspects of the proposal are the use of Grade 1 agricultural land, and the impact on Rivenhall Thicks, a block of ancient woodland and a historic feature of the setting of the landscape.

8.11.3 The solar farm would be visible in long views to the east, and would add to incremental damage in an area under pressure from development, gravel workings and a recycling plant. Research - Conserve - Campaign The NPPF requires planning decisions affecting heritage assets to be made by assessing the damage to them and balancing that against public benefit. Whilst there is a public benefit from solar farms, this is not the place for one. There would be damage to the setting and significance of heritage assets, and also to wider public amenity in the sense of damage to the enjoyment of that setting. We would therefore recommend that this application be refused.

## 8.12 UK Power Network

8.12.1 No response received. Members will be updated.

## 8.13 BDC Ecology Consultant

8.13.1 We have re-assessed the Great Crested Newt District Level Licencing Impact Assessment & Conservation Payment Certificate and the Essex Biodiversity Validation Checklist, submitted by the Applicant, relating to the likely impacts of development on designated sites, protected and Priority Species & Habitats.

8.13.2 Furthermore, we have reviewed the Biodiversity Net Gain Assessment (Corylus Ltd, July 2022), the Biodiversity Metric 3.0 – Calculation Tool (July

2022), the Landscape and Ecological Mitigation Plan – Rev B (Corylus Planning & Environmental Ltd, July 2022), which have been submitted to accompany the soft landscape proposals and demonstrate measurable and bespoke biodiversity net gains for these proposals, as well as mitigation measures for breeding Skylark.

- 8.13.3 We are still satisfied that there is sufficient ecological information available for determination, subject to securing appropriate compensation measures for Skylark (Priority species).
- 8.13.4 This provides certainty for the LPA of the likely impacts on protected and Priority species/habitats and, with appropriate mitigation measures secured, the development can be made acceptable.
- 8.13.5 The mitigation measures identified in the Ecological Impact Assessment (Corylus Planning & Environmental Ltd, November 2021) should still be secured and implemented in full, as this is necessary to conserve and enhance protected and Priority Species.
- 8.13.6 The finalised measures should be provided via a Construction and Environmental Management Plan - Biodiversity to be secured as a pre-commencement condition of any consent. This should include measures to avoid impacts to bats and adverse lighting during the construction phase, but we are satisfied that no further measures are required during the operation phase of the scheme. In addition, as the Applicant intends to join the Essex District Level Licencing (DLL) scheme, a copy of the site licence should also be secured as a pre-commencement condition of any consent.
- 8.13.7 In terms of Skylark, it is indicated that we do not support the proposed locations for the Skylark Plots as outlined within the Landscape and Ecological Mitigation Plan – Rev B (Corylus Planning & Environmental Ltd, July 2022). This is because the eight Skylark plots will be located immediately adjacent to approximately two-metre-high fencing and will unlikely provide suitable nesting habitat for Skylark, as the species would actively avoid the locations due to the risk of predation.
- 8.13.8 Consequently, it is highlighted that nesting within the site is relatively unlikely, given to close spacing of the solar panels and the number boundary features which will increase the risk of predation. This includes the neutral grassland area proposed to be enhanced to the south of the site, as it is located adjacent to Rivenhall Thicks. Furthermore, whilst it is considered that Solar Farms will generally enhance foraging options for Skylark, it is highlighted that there is currently no agreed guidance or published research which details the full extent of these foraging benefits, compared to the loss of nesting territories.
- 8.13.9 As a result, it is recommended that alternative Skylark Mitigation Strategy is secured for this application, to ensure bespoke compensation for breeding habitat and allow the LPA to demonstrate they have met their biodiversity duty under the NERC Act 2006. This should be undertaken with

consideration to the recent prototype methodology submitted in CIEEM In Practice<sup>1</sup>. As a result, a Skylark Mitigation Strategy will require compensation measures to be provided in suitable land, during the lifetime of the solar farm. The implementation of the measures could then be secured as a condition of any consent if suitable compensation can be delivered in the Applicant's control. However, if suitable land is not available in the Applicant's control, then any compensation measures may be required to be secured via a legal agreement which could be brokered by the land agent Whirlledge and Nott.

- 8.13.10 We are also pleased to see the provision of the Biodiversity Net Gain Assessment (Corylus Ltd, July 2022), the Biodiversity Metric 3.0 – Calculation Tool (July 2022), which have been calculated appropriately with realistic targets for the habitat creation post construction. This includes a net increase of 50.48% of Habitat units and a net increase of 61.58% of hedgerow units, as well as securing further ecological connectivity across the landscape via the hedgerow, woodland and meadow creation. This clearly demonstrates a measurable biodiversity net gain can be achieved for this development, as outlined under Paragraph 174d & 180d of NPPF 2021.
- 8.13.11 Furthermore, we support the proposed planting schedule and specification, as outlined within the Landscape and Ecological Mitigation Plan – Rev B (Corylus Planning & Environmental Ltd, July 2022), which is in line with the submitted Biodiversity Metric. However, we still expected that a Landscape and Ecological Management Plan should be secured as a condition of consent, which would be set out the detailed management plan to achieve the aims and objectives of the Biodiversity Metric. In addition, we support the proposed 4 x 1FF Schwegler Bat Box outlined within the Landscape and Ecological Mitigation Plan – Rev B, but indicate that heights and orientations of these features should be provided within the Landscape and Ecological Management Plan to ensure that they are installed appropriately.
- 8.13.12 This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.
- 8.13.13 Recommend conditions in relation to a Construction Environmental Management Plan for Biodiversity, submission of a copy of Natural England Licence for Great Crested Newt, Skylark Mitigation Strategy and Landscape and Ecological Management Plan.
- 8.14 BDC Environmental Health
- 8.14.1 If there is a decision to grant consent then Environmental Health would expect the plant to achieve overall noise levels of 10 dB(A) below the background noise level at noise sensitive dwellings so as to not give rise to

any increase in the background noise level at those locations and with no dominant tone at 100Hz at any residential property.

- 8.14.2 It is noted that the acoustic report by Acoustics Consultants Limited reference 9453/JC dated 8th May 2022 seeks to apply BS4142 to assess the noise from the site. Whilst this is accepted methodology, it is noted that the report does not use a different averaging time period of 15 minutes nor a different background noise level for the night time noise calculation.
- 8.14.3 In practice, noting the noise levels in Figure 3 then this should still not lead to a significant impact conclusion but it would be appropriate to address this point and to provide an agreed noise mitigation scheme once the final specification of noise producing elements (e.g. inverters) of the installation is known. It is likely that greater disturbance would be caused at the construction stage and therefore it is important that hours of working are controlled and suggested conditions are given below. If there is a decision to grant then the following conditions are recommended:
- 8.14.4 1) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:
- Monday to Friday 0800 hours - 1800 hours  
Saturday 0800 hours - 1300 hours  
Bank Holidays -& Sundays - no work
- 8.14.5 2) A dust and mud control management scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and shall be adhered to throughout the construction process. (Particular reference shall be made to the control of dust at the time of removal of any asbestos containing material).
- 8.14.6 3) No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.
- 8.14.7 4) No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority and shall be adhered to throughout the construction process.
- 8.14.8 5) An updated noise report prior to any development shall be submitted with confirmation of details of plant design, noise mitigation and resultant noise levels at noise sensitive premises.
- 8.14.9 6) Noise levels (LAeq,15min) from the typical operation of the plant shall be at least 10 dB(A) below the background noise level (LA90,15min) at noise sensitive dwellings so as to not give rise to an increase in the background noise level at those locations. The noise shall have no dominant tone at 100Hz at any residential property.

## 8.15 BDC Historic Buildings Consultant

- 8.15.1 The site is an irregular parcel of land, immediately south of Rivenhall Place, a Grade II\* listed building located within landscaped grounds (list entry number: 122598). A Grade II listed bridge is within the house's grounds (list entry number: 1338253). Changes in recent history have reduced the parkland at Rivenhall Place and additional screening has partially removed the designed landscape attributed to Repton, creating a much closer setting than the building once had. However, the agrarian setting of the building and the existing character of the application Site is an important contributor to the building's significance, providing context and allowing for views from and toward Rivenhall Place from the wider landscape. In particular, the footpath running through and across part of the central section of the Site affords glimpses of the house from the public realm, meaning the house is an active contributor to the character of the area. Other listed buildings in proximity to the Site are south of the Site and include Ford Farm and Ford Farmhouse Barn (list entry number: 1122614), and a cluster of buildings on Church Road, including 1 and 2 Rivenhall Farm Cottages (list entry number: 1306464), Rivenhall Hall (list entry number: 1122613) and the Church of St Mary and All Saints (list entry number: 1169594). With the exception of the Church, all are Grade II listed. Located within a Scheduled Monument (list UID: 1013831), St Mary and All Saints Church is Grade I listed. The proposed solar panel farm would dramatically change the character of the landscape surrounding these heritage assets, partially removing their rural, agrarian setting. In particular, there will be a notable effect upon the setting of Rivenhall Place, affecting how the listed building is experienced and understood.
- 8.15.2 I previously raised concerns regarding the lack of assessment which had been conducted regarding the impact of the proposals upon the setting of nearby heritage assets. The heritage statement which has been submitted has removed these concerns, providing a thorough assessment of the impact the proposed solar park will have on surrounding designated heritage assets. The conclusions made are well informed and follow statutory guidance; I do not dispute the levels of impact found within the heritage statement, whereby there will be harm to the significance of the Church and Rivenhall Place due to the diminishment of their rural surroundings. I agree that the setting and significance of the scheduled monument would not be harmed. Therefore, the additional information provided does, I feel, now meet the requirements of Section 194 of the NPPF. I agree with the Applicant's conclusions: the proposed installation of solar panels will result in a change to the landscape that can be considered to result in a level of less than substantial harm to the setting of Rivenhall Place and the Church of St Mary. Section 202 of the NPPF is thus applicable in this instance.

## 8.16 BDC Landscape Services

- 8.16.1 Landscape Services has been consulted on this application for a solar array installation at the above site. On an earlier application for pre-



application advice to a different layout comments were provided over the perceived impact/ sensitivities from public routes traversing a historic landscape setting. Although the scheme has been modified to reflect the need to mitigate sentiments expressed in consultee comments I think the quality of the setting is still germane to the consideration of the proposals.

- 8.16.2 The proposed solar array will occupy an area of arable land between a significant block of ancient semi-natural woodland – Rivenhall Thicks and the historic parkland that forms the setting for Rivenhall Place. The field boundaries accommodate a number of PROWs that form part of a larger mosaic of access routes through attractive countryside around the nearby villages of Rivenhall and Silver End.
- 8.16.3 The woodland at Rivenhall Thicks is a protected site (ref. TPO 17-2010-W1) and a local wildlife site (Bra169); this woodland along with the adjacent woodland – Tarecroft – further to the south-east are historic woodlands with origins dating before 1600. It is reasonable to conclude that the former would have been a significant feature in the setting considered by Humphrey Repton when he was commissioned to landscape the gardens of Rivenhall Place in 1789. During his time at the property one of Repton’s comments referred to his proposal to lift the view of the property by creating “a pleasing piece of water in front of the house”. The setting and broader vistas were undoubtedly a significant point of reference for him as they must also be to a visitor to-day.
- 8.16.4 There are three public rights of way (ref. PROWs 105-11,108-19 and 105-25) that form part of larger circular walk within the locality, currently affording views of the house within the parkland setting and the broader context of the contiguous arable holding and the wider backdrop formed by Rivenhall Thicks. The character of the views and experience of the countryside is largely defined by the charm and tranquillity of this largely unspoilt setting.
- 8.16.5 The proposal will impose an extensive, monotonous and intrusive element across this historic landscape and although it is acknowledged the panel installations are not a ‘permanent’ change they will be an established presence for many years; it is difficult to reconcile the harm they will impose with the benefits that renewable energy installations provide elsewhere in the District.
- 8.16.6 The sensitivities of this particular landscape do not lend themselves to the proposal and mitigation from additional landscaping is likely to further screen the views rather than soften the cumulative impact of the panels, particularly along route 105- 25 which runs in line with southern boundary of the parkland.
- 8.16.7 It is accepted that the layout has been revised from the proposal submitted previously but it is still considered that the broader impact of a scheme of this size can only diminish the landscape setting of Rivenhall Place and the appreciation of the historic vistas/rural setting from the network of public

footpaths. Renewable energy projects have undoubted benefits but the proposal creates much harm in this location and the current agricultural application should be retained. In conclusion – Landscape Services would still have to object to the proposal for a solar array in this setting.

#### 8.17 ECC Archaeology

- 8.17.1 A Desk Based Assessment has been submitted with the application which has established that there is an archaeological interest within the site. The DBA concludes that the potential for and significance of these remains cannot be accurately assessed on the basis of the available evidence. A geophysical survey has been completed which has been successful in the detection of anomalies which indicate several phases of archaeological activity including three probable areas of settlement activity, one of which covers a sizable area. Following the results of the geophysical survey, three 'Archaeologically Sensitive Areas' containing relatively coherent remains have been defined.
- 8.17.2 Following a request for an archaeological evaluation of the above site prior to determination of the application a mitigation strategy has been proposed to protect the three areas of archaeological sensitivity identified through geophysics. These areas have been identified in a Written Scheme of Investigation (The Jessop Consultancy, 2022). The mitigation strategy for these areas has been agreed and will be carried out in accordance with the WSI submitted with this application.
- 8.17.3 The remaining areas within the scheme will need to undergo a further evaluation in order to 'ground truth' the geophysical survey results in areas where there may be an impact on archaeological deposits. This work will be carried out by condition and a separate WSI for trial trench evaluation will need to be submitted and approved as a condition on the above application.
- 8.17.4 6 conditions have been recommended.

#### 8.18 ECC Highway Authority

- 8.18.1 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions relating to the following: Construction Traffic Management Plan, compliance with the visibility from the access, no unbound material being used on the surface within 15m of the highways with informatives relating to a temporary diversion of footpath 11, temporary traffic signals, the PRoW network and minimum widths, entering into agreements with the Highways Authority, no drainage onto the Highway, commuted sum for payments towards maintenance of Highways works.

8.19 ECC Lead Local Flood Authority

8.19.1 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission. Informatives have been recommended.

8.20 ECC Minerals and Waste

8.20.1 The entirety of the project area is located within land which is designated as a Mineral Safeguarding Area (MSA) and therefore the application is subject to Policy S8 of the Essex Minerals Local Plan 2014 (MLP).

8.20.2 Policy S8 of the MLP requires that a non-mineral proposal located within an MSA which exceeds defined thresholds must be supported by a Minerals Resource Assessment to establish the existence, or otherwise, of a mineral resource capable of having economic importance. This will ascertain whether there is an opportunity for the prior extraction of that mineral to avoid the sterilisation of the resource, as required by the National Planning Policy Framework (Paragraph 210). The same paragraph encourages the prior extraction of mineral where it is practical and environmentally feasible.

8.20.3 It is however noted that the proposal is for a solar farm and that there would not be any significantly intrusive ground works required to establish the development. It is further noted that the Design and Access Statement November 2021 states at Section 4.3 that the proposed development is temporary in nature and that the proposed development site will be 'returned fully to agriculture' upon expiration of permission. On that basis, the MWPA concludes that the mineral subject to the MSA is not at risk from permanent sterilisation and that therefore a MRA is not required.

8.20.4 With regard to Mineral Consultation Areas, Policy S8 of the MLP seeks to ensure that existing and allocated mineral sites and infrastructure are protected from inappropriate neighbouring developments that may prejudice their continuing efficient operation or ability to carry out their allocated function in the future. Policy S8 of the MLP defines Mineral Consultation Areas as extending up to 250m from the boundary of an infrastructure site or allocation for the same.

8.20.5 The application site does not pass through a Mineral Consultation Area (MCA) and therefore, a Mineral Infrastructure Impact Assessment (MIIA) would not be required as part of a planning application on this site.

8.20.6 Policy 2 of the WLP seeks to ensure that existing and allocated waste sites and infrastructure are protected from inappropriate neighbouring developments that may prejudice their continuing efficient operation or ability to carry out their allocated function in the future. Policy 2 defines Waste Consultation Areas as extending up to 250m from the boundary of existing or allocated waste infrastructure, unless they are Water Recycling Centres, where the distance increases to 400m.

8.20.7 The application site does not pass through a Waste Consultation Area (WCA) and therefore, a Waste Infrastructure Impact Assessment (WIIA) is not required as part of the planning application.

9. PARISH / TOWN COUNCIL

9.1 Rivenhall Parish Council

9.1.1 The site will be fully visible from Church Road despite the hedge planting which will not mature for many years. Grade 1 agricultural land will be removed from food production. Glare from solar panels will impact upon the visibility of motorists along Church Road and Park Road. Local wildlife, present at the moment, will be denied access to the whole site; the species affected will include deer, badgers, hares; birds including skylarks, kestrels and other birds of prey, and many insects such as bees and butterflies.

9.1.2 This site would seriously impact upon the overdevelopment of the local countryside, which currently includes various new housing developments, quarries, the Integrated Waste Management Facility, and various major Highway improvement schemes. Rivenhall has rapidly declined from a rural idyll into one major construction site, and this is a project too far.

10. REPRESENTATIONS

10.1 A total of 12 objecting representations and 1 general comment have been received and are summarised below and for avoidance of doubt no objections were withdrawn in response to re-consultation undertaken:

Heritage Impact

- Impact on local heritage, particularly Rivenhall Place which would be detrimental to securing the future of the heritage asset.
- There must be better sites in the local area that this solar farm could be situated and not impact heritage assets.
- The proposed solar farm would be visible for all ground floor rooms and bedrooms on the south side of Rivenhall Place as well as the Repton designed garden.
- The entrance to Rivenhall Place may be used for rough parking, which was also laid out by Repton.
- Rural views will be spoiled and the setting of St Marys Church and Rivenhall Place as seen from the public footpaths.

Environmental Impact

- The site would impact on the visual environment for many years.
- Access for wildlife.
- Agricultural land would be taken out of production for 40 years, solar panels are one of the most expensive ways of producing electricity when good agricultural land is used.

- The grazing would be of low quality and not support any meaningful amount of sheep.
- Not against Solar farms but consider this site is very visible in what has been a rural landscape with ancient woods and trees.
- In order to install, you have to remove all the wildlife from the site.
- Destruction of arable land for growing crops.
- Destruction of wildlife and trees/ vegetation.
- Information on impact on bats is incorrect, full surveys should be carried out.
- Astronomical observatories should be protected from any visible light sources.
- Impact on Wildlife

#### Highway/ PRow Impact

- The proposed hedge planting will affect road safety.
- Public amenity will be severely impacted along with the footpaths.
- Two very dangerous bends adjacent to the Solar Farm, and the construction traffic would make it even more dangerous.
- The closure or diversion of the footpath is unwelcome.
- Conflict from vehicles on PRow.
- Increase in traffic through the village, in particular Silver End.
- Silver End used as a rat run for the A12 and A120.
- More accidents in Park Road and Church Road involving wildlife looking for a path between grazing/ hunting areas.

#### Other

- Houses in Rivenhall and Silver End will be able to see the Solar Panels.
- Many parts when decommissioned go into landfill.
- It would be far better sited on the north side of the Kelvedon Road.
- The site chosen is inappropriate in size, and location.
- The application is incomplete and misleading, particularly the noise report and location of plant.
- Prevents people from wanting to move to the area.
- Eyesore to the local community.
- Will take years to return back to existing use.
- Majority of individuals supporting the proposal do not live in the area and will not be affected at all.

10.2 A total of 7 letters of support have been received for the application, a summary of the comments are set out below:

- The proposal will have very little impact on the local area.
- Solar energy appears to be a suitable method of producing clean energy to help reduce climate change and reduce energy bills and stop using imported Russian gas.
- Highly efficient connection to the grid.
- Secures Biodiversity Net Gain.
- Will not disrupt any natural wildlife, as used for arable farming.

- 40 year break will vastly improve the soil due to less intensification.
- The Applicant will utilise local businesses.
- Job creation.
- Reduces carbon emissions by 5533 tonnes per year.
- Supports Braintree District Councils declaration of a Climate Emergency
- Contributes towards Essex Climate Commissions net zero commitments
- Will power over 5000 homes.
- Wide enough spaces around the panels to not shadow grassland.

10.3 A proforma letter, produced by the Applicant's and circulated to residents within the district, was signed by 265 residents within the District in support of the application. 1 proforma letter was received that did not support to the application. The letter set out the following points:

- Climate change is the greatest threat to our planet, it's a climate emergency, and we need urgent action on the issue. We need renewable technology solutions, such as this proposed solar farm, to tackle climate change.
- This solar farm could provide enough electricity to power around 5768 homes a year, equivalent to 9% of homes in the District.
- The proposed solar farm will save approximately 5533 tonnes of carbon dioxide per year.
- This supports Braintree District Climate Emergency Declaration.
- The solar farm provides a significant Biodiversity Net Gain over 50%.
- The project would generate significant environmental benefits.
- The UK has set a target to be Net Zero by 2050. Solar helps to meet this target.

## 11. PRINCIPLE OF DEVELOPMENT

11.1 Proposals for development of solar farms are assessed against national and local planning policies including National Planning Policy Statements (NPS), National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) and the statutory Development Plan for Braintree District Council.

11.2 The Climate Change Act 2008 sets legally binding targets to reduce carbon dioxide emissions in the UK by at least 80% by 2050, from 1990 levels. Paragraph 11 of the NPPF identifies that there is a presumption in favour of sustainable development and Paragraph 84b supports decisions that enable diversification of agricultural rural businesses.

11.3 The Government has set out through the Ten Point Plan for a Green Industrial Revolution and Energy White Paper in 2020, the Net Zero Strategy in 2021 and in last year's British Energy Security Strategy a clear and consistent set of strategic objectives to enable the transformation of the energy system so it is secure, low-cost and low-carbon The governments recently published 'Powering up Britain Energy Security Plan March 2023' sets ambitions to fully decarbonise the power system by 2035, growing and developing energy sources beyond the power sector to deliver on the UK

net zero commitments. It states that in 2021, the share of generation from renewables reached 40%, including from bioenergy, wind and solar and 15% from nuclear. It goes on to say that 'Solar has huge potential to help us decarbonise the power sector. We have ambitions for a fivefold increase in solar by 2035, up to 70GW, enough to power around 20 million homes. We need to maximise deployment of both ground and rooftop solar to achieve our overall target. Ground-mount solar is one of the cheapest forms of electricity generation and is readily deployable at scale. Government seeks large scale solar deployment across the UK, looking for development mainly on brownfield, industrial and low/medium grade agricultural land. We encourage deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement'.

- 11.4 The Government expects future low cost, net zero consistent electricity to be made up of predominantly on-shore and offshore wind and solar, complemented by technologies which provide power or reduce demand when the wind is not blowing, or the sun does not shine.
- 11.5 Renewables now account for over one third of all UK electricity generation, up from 7 per cent in 2010, driven by the deployment of wind, solar and biomass. Electricity demand is predicted to double in the UK by 2050, driven in part by the electrification of vehicles and increased use of clean electricity replacing gas for heating. The Government has set a target to cut greenhouse gas emissions compared to 1990 levels in the UK by 100% by 2050.
- 11.6 More widely, the UK is committed to meeting a target of net-zero by or before 2050. This means that across the UK, emissions of Green House Gas for all sources will have to reduce from the current figure of 4352 million tonnes. The UK Government industrial and green growth strategies have made further pledges to invest in green growth low carbon infrastructure and investment in efficiency.
- 11.7 The overarching National Policy Statement for Energy 2011 is a document published by Government which is mainly intended as guidance to the Planning Inspectorate on Nationally Significant Infrastructure Projects, but which also sets out the Government's policy of delivery of major energy infrastructure. It sets out a commitment to, and roadmap to achieving, the Government's commitment to achieving a 80% reduction in green house gas emissions by 2050, compared to 1990 levels. Achieving this will require a number of measures, including the electrification of many technologies which are currently powered by other means, resulting in an increasing need for the sustainable delivery of clean electricity. The document also sets out a number of factors to be considered in the design of renewable energy projects and the selection of suitable sites.
- 11.8 The principle of developing solar power generating development is supported in the National Planning Policy Framework (NPPF) which states that planning plays a key role in helping shape places to secure radical

reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. The NPPF talks generally about renewables within the context of planning for climate change but makes no specific reference to solar farms. It favours sustainable energy systems as long as any impacts are (or can be) made acceptable, and states that Local Planning Authorities should approach these as part of a positive strategy for tackling climate change.

- 11.9 Paragraphs 152 and 158 of the NPPF are of particular relevance to this proposed development. Paragraph 152 states that the planning system should support the transition to a low carbon future. Paragraph 158 states that when determining planning applications for renewable and low carbon development, Local Planning Authorities should: a) not require Applicant's to demonstrate the overall need for renewable or low carbon energy, and recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions; and b) approve the application if its impacts are (or can be made) acceptable.
- 11.10 Other relevant sections of the NPPF include Paragraphs 174a and 174b which requires proposals to: a) protect and enhance the valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 11.11 The Written Ministerial Statement (WMS) on Solar Energy: Protecting the local and global environment (25<sup>th</sup> March 2015) relates to the unjustified use of agricultural land and expects any proposal for a solar farm involving the best and most versatile agricultural land to be justified by the most compelling evidence. The WMS was linked to updated National Planning Practice Guidance.
- 11.12 The National Planning Practice Guidance (PPG) states that increasing the amount of energy from renewable technologies will help secure supply and reduce carbon emissions to slow down climate change, which is one of the core principles of the NPPF. The Renewable and Low Carbon Energy section of the PPG sets out the particular planning consideration that relate to large scale ground mounted solar photovoltaic farms. These include, but are not limited to:
- i) The effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;
  - ii) Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use



- where applicable and/or encourages biodiversity improvements around arrays;
  - iii) The proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety; the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
  - iv) the need for, and impact of, security measures such as lights and fencing;
  - v) Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets;
  - vi) The potential to mitigate landscape and visual impacts through, for example, screening with native hedges
  
- 11.13 In July 2019 Braintree District Council declared a Climate Emergency with the aim to make Braintree District Council activities, as far as practical, carbon neutral by 2030. In October 2019 the Climate Change Working Group was established, comprising cross party Members and public representatives from community, business, and other organisations, to develop the Council's Climate Change Strategy and associated action plan to ensure all council functions and decision making was aligned to the shift to carbon neutral in 2030. In September 2021 at Full Council the Climate Change Strategy and its associated Action Plan was adopted. The Climate Action Plan included indicative timescales: ongoing, short, medium, and long term.
  
- 11.14 In July 2021 the Essex Climate Commission published the Commission's recommendations in "Net Zero: Making Essex Carbon Neutral". In November 2021 ECC Published its Climate Action Plan supporting the Commission's recommendations. In January 2022 ECC launched its environmental stewardship Climate Focus Area (FCA) which comprises the Blackwater and Colne catchments. Braintree District covers 34.52% of the total Climate Focus Area and 68.69% of the District's land is included within the Climate Focus Area, this equates to 42,0178 hectares. The intention of the CFA is to pilot sustainable land stewardship technologies and systems that can then be adopted across all of Essex.
  
- 11.15 There are several Local Plan policies that are relevant to the consideration of a solar farm application. Those being policies LPP1 and LPP73 of the Adopted Local Plan. The application site is located outside the development limits of Silver End or Rivenhall within open countryside and is therefore located within the Countryside where Policy LPP1 applies.
  
- 11.16 Policy LPP1 of the Adopted Local Plan seeks to restrict development outside development boundaries exclusively to uses identified as being appropriate to the countryside. The objective being to protect and enhancing valued landscapes, sites of biodiversity or geological value and

soils to protect the intrinsic character and beauty of the countryside. Paragraph 3.15 states that outside of the development boundaries, it is considered that new development would not normally be able to meet the NPPF planning principles and that the test of sustainable development would be unable to be met.

- 11.17 Policy LPP73 of the Adopted Local Plan is encouraging of renewable energy schemes where the benefits in terms of low carbon energy generating potential, outweighs harm to or loss of i) Natural landscape or other natural assets ii) Landscape character iii) Nature conservation iv) Best and Most Versatile Agricultural Land v) Heritage Assets, including the setting of Heritage assets vi) Public Rights of Way vii) Air traffic safety viii) Ministry of defence operations and x) watercourse engineering and hydrological impact.
- 11.18 Policy LPP73 goes on to say that renewable energy schemes will also need to demonstrate that they will not result in unacceptable impacts on residential amenity including visual, noise, shadow flicker, reflection, odour, fumes and traffic generation. The development must also be capable of efficient connection to existing national energy infrastructure, in considering planning applications, the LPA will take into account the energy potential of the scheme. It also states that where appropriate large scale solar farms shall be accompanied by a sequential assessment which considers alternative brownfield sites and lower agricultural land, with compelling justification provided for proposals on high agricultural land.
- 11.19 The Policy does not rule out renewable energy schemes in the District in countryside locations but bears consideration of their impacts upon amenity, landscape, BMV, nature conservation and historic features. These planning considerations are compatible with government legislation, the NPPF and NPPG.
- 11.20 As set out above the approach in the Government legislation, NPPF and local planning policies is to be supportive to the principle of solar energy developments provided that the environmental impacts can be appropriately managed. A key environmental benefit is that the Applicant estimates that the solar farm has the capability to generate circa 22.5 Megawatts of energy per year, which could provide enough energy to power approximately 5,756 homes and displace up to 5533 tonnes of CO<sub>2</sub> per annum.
- 11.21 A development of this scale would undoubtedly contribute to a reduction in emissions in support of the national drive to establish a low carbon economy which is no longer reliant upon fossil fuels. The development would therefore generate a potential significant benefit. However, it should also be noted that Paragraph 158 of NPPF makes it clear that, when determining planning applications for renewable and low carbon development, Local Planning Authorities should *“not require Applicants to demonstrate the overall need for renewable or low carbon energy, and*

*recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions”.*

- 11.22 It is observed that the considerations identified in Policy LPP73 of the Adopted Local Plan do in fact mirror those identified in the Planning Practice Guidance as to the criteria relevant for judging renewable energy projects. The NPPG does however advise specifically in relation to large-scale solar farms that one of the key considerations should be whether land is being used effectively; recommending that solar farms are focused on previously developed and non-agricultural land, particularly where development would result in the loss of high quality agricultural land. This sentiment is amplified in the Policy LPP73 of the Adopted Local Plan which requires that large scale solar farms are accompanied by a sequential assessment which considers alternative brownfield sites and lower quality agricultural land, and requires a compelling justification for developments on high quality agricultural land.
- 11.23 It must be noted that any compliance, or non-compliance, with the sequential test requirement of Policy LPP73 is likely to carry significant weight but may not, of itself, be sufficient to render the proposal in compliance or contrary to the Adopted Plan as a whole. Therefore, whilst forming a determinative judgement on the basis of the precise wording of Policy LPP73 alone is not fully recommended, such general factors are material in their own right and should generally be factored into the consideration of the wider planning balance.
- 11.24 The application is accompanied by a Site Selection Assessment which is intended to act as a sequential test. This assessment looked at the availability of other sites situated on previously developed and/or non agricultural land, or lower or equal grade agricultural land. Commercial rooftops were not accessed as there were none known which were of comparable size, and in any case the Planning Practice Guidance does not mention rooftops when considering alternative sites for ground mounted solar farms.
- 11.25 The Applicant has identified a connection opportunity into a 33kV overhead cable which passes through the site. This provides an efficient form of connection as it requires no additional offsite cable and infrastructure to connect into the grid, and minimises transmission losses between the solar farm and grid connection. This avoids the need for further infrastructure such as a new substation or reinforcements to the existing substation.
- 11.26 There is no specific guidance regarding any geographic area that should be considered when assessing potential sites, the Applicant considered it reasonable to define the search area using distance to the Point of Connection (PoC) as the key parameter; Connection to the electricity grid is also a requirement of Policy LPP73. The Applicant therefore only assessed the availability of potential alternative sites that may be capable of connecting to that same point of connection as proposed.

- 11.27 A high-level assessment of potential output and connection costs was completed and concluded that potential sites located within 1km of the PoC could potentially be viable. However, the Applicant states that the search area was extended to 2km in order to robustly demonstrate suitable alternatives in the area. This distance was set by the requirement for an on site connection into the overhead lines and whilst the whole site does not need to fall within this corridor, a suitable part of the site for grid connection must. A 4km (2km from the overhead line) wide corridor was therefore applied with the possible PoC to the cable, which defined the search area.
- 11.28 The assessment sets out as a preference to identify previously developed land or land not within agricultural use that could be potentially suitable for a solar farm of an equivalent generating capacity, within the unconstrained area. Sites were found using the National Land Use Database, The Estates Gazette and Braintree District Council Brownfield land register. Unconstrained areas were viewed against land parcel boundaries to establish viability of land parcels, with unviable plots further filtered from the process.
- 11.29 In terms of undeveloped land, no sites of the required scale were identified in the search area. A manual search of aerial imagery within the solar opportunity area was undertaken and no previously developed land was identified within the defined search area. In terms of lower grade agricultural land, a survey of the proposed application site confirms that the majority of the site, 71%, is subgrade 3a “good quality” agricultural land, with 29% being Grade 2 “very good quality”. The proposal site is therefore Best and Most Versatile agricultural land. The entire search area is covered by land falling within Grade 2 identified on the DEFRA Agricultural Land Classifications map as such the report concluded that it was not possible to steer the development into areas of lower grade agricultural land.
- 11.30 This resulted in a total of 8 sites added to the site assessment list along with the Application Site. The remaining 8 sites along with the application site were assessed against a number of criteria which included inter alia; land availability, sensitive receptors, PRoWs, landscape sensitivity, landscape conservation, Listed Buildings, distance from connecting point, obstacles, offsite infrastructure. None of the sites were considered by the Applicant to be more suitable from a planning and environmental perspective than the application site. The proposed application site was therefore chosen by the Applicant as sequentially the most appropriate and feasible site.
- 11.31 Having reviewed the report, Officers consider that it generally provides a robust assessment of alternative sites. While further evidence could have been sought about the general availability of other sites a further distance away from the connection point, there were other factors which made the sites less suitable overall comparatively to the application site. As such, notwithstanding the weight to be attached to Policy LPP73, it is considered that the site could be sequentially preferable.

11.32 However, whilst the site could be deemed to be sequentially preferable to other potential sites located within the vicinity of the grid connection point, this does not automatically mean that it is generally acceptable and complies with other relevant planning policies. A careful assessment of the impacts is required. This is set out in the remaining report below.

## 12. SITE ASSESSMENT

### 12.1 Landscape and Visual Impact

12.1.1 A core principle of the NPPF is to recognise the intrinsic and beauty of the countryside. Paragraph 174 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

12.1.2 Policy LPP67 of the Adopted Local Plan states that the LPA will take into account the different roles and character of the various landscapes in the District and recognise the intrinsic character and beauty of the countryside, in order to ensure that any development permitted is suitable for the local context. Proposals should be informed by, and be sympathetic to the character of the landscape as identified in the District Councils Landscape Character Assessments. Proposals which may impact on the landscape such as settlement edge, countryside, or large schemes, will be required to include an assessment of their impact and should not be detrimental to the distinctive landscape features. It goes on to say that additional landscaping including planting of native species of trees, hedgerows and other flora may be required to maintain and enhance these features.

12.1.3 Whilst large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes, the impact of a well-planned and well-screened solar farm can be properly mitigated effectively within the landscape with effective screening and appropriate land topography with the area within the zone of visual influence being limited. This proposed development would be located across an open landscape, across agricultural field with a sloping gradient.

12.1.4 The site mainly encompasses one large arable field extending to approximately 50 hectares, but the overall development area, comprising Compartments 1 and 2 (and some smaller ancillary areas), covers a total area of approximately 32 hectares. The proposal would retain the original field pattern in situ. Within the site, the panels would be sat on the rolling slope and flat land within east west arrays (rows).

12.1.5 Whilst there are a number of boundary hedges and trees, the Applicant proposes to introduce mitigation planting within the existing field in the form of scrub screening blocks, hedgerows and a woodland screening block to the north which would be present and established after the solar panels are removed. It is proposed that the planting would remain after the solar panels are removed due to its ecological value, which in turn would lead to a change in the character and appearance of the landscape, which could

be argued, would lead to a negative change in the quality of the landscape and loss of agricultural character.

- 12.1.6 The September 2006 Local Character Assessment was jointly published by Braintree DC, Brentwood BC, Chelmsford Borough (now City) Council, Maldon DC and Uttlesford DC. The character assessment stipulates that the site is located within the Silver End Farmland Plateau Landscape Character Area, which is identified as containing the following key characteristics - gently undulating farmland, irregular and predominantly large arable fields marked by sinuous hedgerows, many small woods and copses provide structure and edges in the landscape and mostly tranquil character away from the main roads. The Local Landscape Character Assessment describes the local Character Area as having a “moderate to high sensitivity to change”.
- 12.1.7 The Character Assessment suggested planning guidelines for this character area should be to ensure that new building is in keeping with landscape character, conserve and enhance the landscape setting of settlements, maintain characteristic open views across the farmland and ensure any new development within the farmland is small scale, responding to historic settlement pattern, landscape setting and locally distinctive building styles.
- 12.1.8 Due to the scale of the development, the application was accompanied by a Landscape and Visual Assessment (LVA), the content of which was assessed by the Council’s external Landscape Consultant, Wynne Williams Associates (WWA). Further information and revisions were sought from the Applicant during the application process whereby the layout was amended to allow a greater sense of openness for users of the route of the definitive Public Right of Way (PRoW) 105\_11. Panels were also set back from the section of this PRoW towards the north-western edge of compartment 2, again to increase the sense of openness.
- 12.1.9 For the avoidance of doubt, landscape character is a broader assessment which looks at the distinctive features and characteristics of a given area, whereas visual effects/amenity is the more localised assessment from specific viewpoints which a person, building or other receptor would experience.
- 12.1.10 In terms of landscape character, the site is rural, but relatively open and exposed in nature. The intensification of arable crop production in the mid to late 20th century led to a general increase in field sizes and the loss of a number of historic hedgerows and field boundaries, both within the site and across the local landscape. This is evident by reference to a number of historic maps dating from the 19th and early 20th century. However, much of the farmland to the west of the site still maintains a strong network of hedgerows and is consequently more enclosed and intimate in character. The parkland at ‘Rivenhall Place’ is strongly enclosed by linear plantations to the north and west, but there is a slightly more open aspect across the agricultural land to the south, including the site.

- 12.1.11 The LVIA submitted in support of the application describes Landscape, Heritage and Nature Conservation Designations in the immediate (within 1km) area. The heritage designations and listed buildings described include the Scheduled Ancient Monuments adjacent to Rivenhall Church and Crossing Temple Barns, the listed buildings of Rivenhall Place and its listed bridge, Bowers Hall, Ford Farmhouse, Rivenhall Hall, Grade I Listed St Mary's Church and Rivenhall Primary School. The LVIA states that the parkland landscape surrounding Rivenhall Place, which was designed by Humphrey Repton, is not listed in Historic England's Register of Parks and Gardens of Special Historic Interest. It is, however, included in Essex Gardens Trust's Inventory of Historic Designed Landscapes, and as such is an undesignated heritage asset. The LVIA recognises that there is some intervisibility between Rivenhall Place and the farmland to the south of the park, especially the woodland of Rivenhall Thicks both of which would have been 'borrowed' landscape adding to the overall effect of the parkland at Rivenhall Place.
- 12.1.12 The LVIA describes the proposed solar arrays, associated infrastructure, and the Proposed Landscape Mitigation and Enhancement measures which seek to establish tree and hedge screening around and within the site. The LVIA assesses the visual impacts of the proposed development on visual receptors at and immediately following construction and at 8-10 years following establishment of the proposed mitigation measures.
- 12.1.13 The baseline visual assessment produced by the Applicant concluded that the site has limited visual influence in the wider landscape and that most views of the proposed development area are relatively localised within an 800m radius of the site. The more significant views of the development are likely to be from:
- i) Church Road to the east and south-east of Compartment 2.
  - ii) Three residential properties on Church Road, namely 'West Field Farm', 'North Field Farm' and the single storey barn conversion to the south-east of the site.
  - iii) Public rights of way immediately adjacent to the site, namely footpath 105\_11 to the north-west of Compartment 2 and footpath 108\_66 to the north-west of Compartment 1.
- 12.1.14 The report concludes that views of the proposed site are all contained within an 800m radius of the site, with the majority of views being towards the south-eastern development area (Compartment 2). Church Road to the immediate east and south-east is predominantly unenclosed by hedgerows and affords very open views across a large proportion of Compartment 2. There are three residential properties on Church Road which also have open views of the site. In addition, the users of public footpath 105\_11 to the north-west of Compartment 2 experience extensive views to the south and south-east, including unenclosed and immediate views of Compartment 2 development area. The footpath also provides middle distance views of Compartment 1 area to the north-west.

- 12.1.15 Compartment 1 is open to view from public footpath 108\_66 where it crosses the arable field at the very north-western extent of the site. There are also some limited filtered views of this part of the site from public footpath 105\_25 on the northern site boundary and from public footpath 105\_21, near to the south-western edge of Silver End village. Middle-distance views of the site from 'Rivenhall Place' are relatively limited and are mostly from upper storey windows on the southern façade of the property.
- 12.1.16 Mitigation proposals have been put forward to reduce or eliminate any potential adverse landscape and visual impacts caused by the development. These proposals include the retention of an undeveloped area within the agricultural field between 'Rivenhall Place' and 'Rivenhall Thicks' in order to preserve existing views to and from 'Rivenhall Place', and the historic setting of the Grade II\* listed house and adjacent parkland. Planting schemes have been proposed to visually screen the development from identified receptors and to provide landscape and biodiversity enhancement. These include a woodland belt along Church Road to the east; hedge gapping and scrub planting along the southern boundary of Compartment 2; hedge planting along public footpaths 105\_11 and 108\_66 (to the north-west of Compartments 2 and 1 respectively); and scrub screening along the eastern boundary of Compartment 1.
- 12.1.17 The Applicant's report concludes that without the planting mitigation in place (or prior to its establishment), the proposed development is predicted to have 'major' adverse visual impacts upon receptors at the three residential properties on Church Road and upon users of public footpaths 105\_11 and 108\_66. The visual impact of the development upon road users on Church Lane are predicted to be 'moderate' and 'adverse'. Also, the development is predicted to have a 'minor' to 'moderate' adverse visual impact upon 'Rivenhall Place'. In the wider landscape, the visual impacts are likely to be 'minor' or 'negligible'.
- 12.1.18 However, once the proposed planting areas have established and matured within a period of 8 to 10 years, the Applicant's Landscape Consultant predicts that the planting will substantially reduce or eliminate any adverse visual impacts caused by the development.
- 12.1.19 In the Applicant's report it states that in respect of effects upon landscape character, the development is likely to have a 'major' impact within the site, and on those areas immediately outside of the site, due to the significant change from an established agricultural land use to a large-scale solar farm which is inconsistent with the prevailing character of the site and local area. However, within the wider environment, the development is unlikely to have any significant adverse landscape effects, except for some 'minor' impacts in locations where there are more distant but limited views of the development.



- 12.1.20 The report concluded that notwithstanding the predicted adverse landscape impacts at the immediate site level, the proposed mitigation planting is likely to significantly reduce any potential adverse impacts within the immediate vicinity of the site and within the wider landscape setting. Hence, the overall long-term adverse impacts upon landscape character are likely to be relatively 'minor or 'negligible', with the mitigation planting and landscape management schemes aiming to provide significant benefits in respect of landscape structure, habitat connectivity and biodiversity enhancement.
- 12.1.21 The Council's specialist landscape consultants (WWA) conclusions upon review of the Applicant's LVIA were that it was generally robust in terms of methodology. However, WWA identified some discrepancies in terms of impact assigned. The assessment of the impacts on immediate views of the site from local roads and residences was considered to be accurate, other than that at West Ford Farm on Church Road, which WWA considered to be a 'Major' impact even after mitigation, as opposed to the Applicant's LVIA which considered the nature of the impact to be 'neutral/beneficial'.
- 12.1.22 WWA also concluded that the landscape and visual effects and those asserted within the LVIA, particularly with reference to those PROW's within and close to the site, were underestimated in the potential effects.
- 12.1.23 WWA concluded that the proposed scheme will have 'major adverse' landscape character effects at Year 1, with mitigation measures reducing this to 'moderate adverse' at Year 8. The recreational value of the PROW's that traverse the site will be adversely affected, with built form intruding on previously undeveloped agricultural fields. The proposed development site is crossed by a number of public footpaths, and these will experience Major Visual Impact.
- 12.1.24 Key instances of this are the judgements of landscape and visual effects on receptors using the public footpaths crossing the land. The LVIA assesses that there will be 'major adverse' effects to these receptors at Year 1, but this will be reduced to "moderate adverse" with mitigation after 8 years, WWA believe that the visual impact after 8 years remains as 'major adverse'.
- 12.1.25 WWA also concludes that the Applicant's LVIA does not lend sufficient weight to the importance of the views from within the application site out to the Listed Buildings or the landscape to the south, in which views to the Listed Buildings would be lost due to the solar panels. Nor do they agree that the impact on the Local Character Area will be beneficial when it is in contradiction to the published landscape planning guidelines in the Landscape Character Assessment. Taking these factors into consideration, WWA believe that there will 'major adverse' harm that the development of the solar farm would cause to the landscape if the site were to be developed as proposed, taking into consideration the mitigation proposed after 8 years.

- 12.1.26 It is considered that for the duration of the development (40 years) the proposal would alter the character of the site and although the panels would in part be semi screened by existing and proposed vegetation, they would still be seen from Historic Buildings, the PRow and wider distance views, given their height of 3m. The mitigation planting and solar panels would also remove views experienced along the existing PRow particularly PRow 105-11 whereby the alteration of the landscape will remove any distant views to Rivenhall Place and Rivenhall Church. This concern was also raised by Historic England.
- 12.1.27 The proposal would detract from the pleasing rural scene and erode the qualities of the 'gently undulating farmland, irregular and predominantly large arable fields' which the area is characterised by and would therefore result in major adverse harm to the character of the area. Whilst mitigation planting is proposed, when the solar farm is decommissioned this impact would remain as the mitigation planting would remain in situ and therefore the character of the area would be lost. It is considered that this impact has significant weight and would weigh against the development in this regard.

## 12.2 Heritage

- 12.2.1 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or setting or any features of special architectural interest which it possesses.
- 12.2.2 Paragraph 199 of the NPPF advises that, when considering the impact of proposed development upon the significance of a designated heritage asset, great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be), irrespective of the level of harm to its significance. The NPPF defines significance as 'the value of a heritage asset to this and future generations because of its heritage interest'. Such interest may be archaeological, architectural, artistic or historic'. The 'Setting of a heritage asset' is defined as 'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.'
- 12.2.3 Paragraph 200 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraphs 201 and 202 address the balancing of harm against public benefits. If a balancing exercise is necessary (i.e. if there is any harm to the asset), considerable weight should be applied to the statutory duty where it arises. Proposals that would result in substantial harm or total loss of significance should be

refused, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss (as per Paragraph 201). Whereas, Paragraph 202 emphasises that where less than substantial harm will arise as a result of a proposed development, this harm should be weighed against the public benefits of a proposal, including securing its optimum viable use.

- 12.2.4 Policy LPP57 of the Adopted Local Plan states that the Council will seek to preserve and enhance the immediate settings of heritage assets by appropriate control over the development, design, and use of adjoining land.
- 12.2.5 A Heritage Statement was submitted to accompany the application. The Statement provides a thorough assessment of the impact the proposal will have on designated and non-designated heritage assets.
- 12.2.6 There are no heritage assets within the site, but the following assets are located within the immediate vicinity of the site, those being:
- Church of St Mary and All Saints - Grade I (NHLE: 1169594);
  - Rivenhall Place - Grade II\* (NHLE: 1122598);
  - Bridge to Rivenhall Place - Grade II (NHLE: 1338253);
  - Roman villa, Anglo-Saxon Hall, cemetery and church site, around and to the north and east of St Mary and All Saints Church, Rivenhall Scheduled Monument (NHLE: 1013831);
  - Rivenhall Church of England Primary School and School House - Grade II (NHLE: 1122612);
  - Rivenhall Hall - Grade II (NHLE: 1122613);
  - Ford Farm and Ford Farmhouse Barn – Grade II (NHLE: 1122614);
  - 1 and 2 Rivenhall Farm Cottages (Ford Farm) - Grade II (NHLE:1306464).
- 12.2.7 Historic England were consulted on the proposal and its impact on the setting of heritage assets within the landscape. The closest heritage asset to the proposal site sits to the north, Rivenhall Place (Grade II\*). The arrangement of house and landscape owes much to Humphrey Repton, who famously sought to maximise the extent and quality of views irrespective of boundary lines. One requisite set out by Repton was the removal or concealment of all objects ‘incapable of becoming proper parts of the scenery’. Though his landscape design was only partially implemented at Rivenhall, the changes that were made to the house and estate (possibly including clearance of farm buildings south of the property) highlight the importance of the landscape setting to the Grade II\* listed building. In 1848 White’s Directory of Essex describes Rivenhall Place as “a stuccoed mansion standing on an eminence, commanding a fine view of the park and adjacent country”.
- 12.2.8 Whilst the appearance of the site has changed over the past two centuries, it remains legible as an agricultural landscape with intentional views from Rivenhall Place. The agrarian setting of the building and the existing

character of the Application Site is an important contributor to the building's significance, providing context and allowing for views from and toward Rivenhall Place from the wider landscape. In particular, the footpath running through and across part of the central section of the Site affords glimpses of the house from the public realm, meaning the house is an active contributor to the character of the area. Whilst the degree of harm is lower than it would be in a landscape of preserved appearance, the proposal would still result in harm to the significance of the Grade II\* Rivenhall Place.

- 12.2.9 Historic England commented that there are very limited views which allow both the Church of St Mary and All Saints (Grade I) and Rivenhall Place to be seen together. These shared views, contribute to the significance of both assets and would be obscured by the development. For the Church the impact would be through loss or alteration to glimpses of the tower against the distant Great Braxted Ridge, available from the PRow crossing the rising ground of the site. Historic England confirm that changes to existing quality of this view would cause low, but not nil, detriment to the significance of the church. The setting of the Scheduled Monument is unlikely to be affected.
- 12.2.10 Other Grade II listed buildings in proximity to the proposed development are east and south of the Site and include Ford Farm and Ford Farmhouse Barn and a cluster of buildings on Church Road, including 1 and 2 Rivenhall Farm Cottages and Rivenhall Hall. The proposed solar farm would dramatically change the character of the landscape surrounding these heritage assets, partially removing their rural, agrarian setting. Both Historic England and the Council's Historic Buildings Consultant confirmed that the setting of the scheduled monument is unlikely to be affected.
- 12.2.11 Historic England and the Council's Historic Buildings Consultant both confirmed that the proposal would result in less than substantial harm to St Mary and All Saints Church (Grade I) by decreasing the ability for the church to be appreciated in its panoramic landscape setting from a publicly accessible route, the degree of harm would be towards the lower end of the scale. They also confirmed that the proposal would harm the significance of Rivenhall Place (Grade II\*) by failing to sustain the character of its important landscape setting, an undesignated heritage asset, with the harm deemed as less than substantial, towards the lower end of the scale. Thereby it is considered that this should be given great weight in the planning balance required under Paragraph 202 of the NPPF. In respect of the Parkland at Rivenhall Place, which is considered to be a non-designated heritage asset, Paragraph 203 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining the application, and that a balanced judgement will be required having regard to the scale of any harm of loss and the significance of the heritage asset. The proposal in this case would lead to less than substantial harm, which weighs against the proposal.

12.2.12 In conclusion, the proposal would give rise to 'less than substantial harm' to the setting of St Mary and All Saints Church (Grade I) and the setting of Rivenhall Place (Grade II\*) listed buildings as well as 'less than substantial harm' to the surrounding landscape of Rivenhall Place. There would also be harm to the non-designated heritage asset. As per Paragraphs 202 of the NPPF, this harm needs to be weighed against the public benefits of the scheme in the overall planning balance. It is clear that there would be a public benefit as a result of the proposal generating renewable energy, however, Officers consider that the harm caused to the setting of the Heritage assets, as outlined by Historic England and the Historic Buildings Consultant, outweigh the public benefits of the proposal and would therefore weigh against the development in this regard. As such, having given this harm considerable importance and weight, it is not considered that the public benefits would outweigh this harm and therefore the heritage balance has not been satisfied, contrary to the aforementioned local policies and the NPPF.

### 12.3 Ecology and Biodiversity

12.3.1 Paragraph 174(d) of the NPPF requires that proposals minimise their impacts on, and provide net gains for, biodiversity. Paragraph 180 of the NPPF states that when determining planning applications, LPAs should refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for.

12.3.2 Paragraph 180(c) of the NPPF states that development resulting in the deterioration or loss of irreplaceable habitats (such as ancient woodland and ancient veteran trees) should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

12.3.3 Policies SP7 and LPP63 of the Adopted Local Plan states that all new development proposals should incorporate biodiversity creation and enhancement measures. Policy LPP64 of the Adopted Local Plan outlines that where there is a confirmed presence or reasonable likelihood of protected species or priority species being present on or immediately adjacent to a development site, the developer will be required to undertake an ecological survey and will be required to demonstrate that an adequate mitigation plan is in place to ensure no harm to protected species and no net loss of priority species. This policy makes specific reference to ancient woodlands. Furthermore, Policy LPP66 of the Adopted Local Plan requires that development proposals provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development.

12.3.4 The application was accompanied by an Ecological Impact Assessment, a Landscape and Ecological Mitigation Plan, a Great Crested Newt District Level Licensing Impact Assessment and the Essex Biodiversity Checklist

relating to the impacts of development on designated sites, protected and priority species and habitats along with Biodiversity Net Gains Assessment.

- 12.3.5 The Ecological Impact Assessment states that an extended Phase 1 habitat and protected species survey was undertaken in October 2020. This comprised a search of the proposed development site to identify any habitats likely to be of conservation value and investigated the presence (or likely presence) of protected species of plants and/or animals.
- 12.3.6 Invertebrates, amphibians, reptiles, birds, bats, hazel dormouse and protected species were assessed. The survey recorded protected or otherwise notable species of plants, animals, and habitats, including habitats and species that are listed Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006, the Wildlife and Countryside Act (as amended 1981) (WCA) and Annex I, II and IV of the Habitats Directive. Sightings of any invasive non-native species were also recorded. Notably the site had a presence of Great Crested Newts and Skylarks.
- 12.3.7 The reports concluded that there were no statutory designated sites located within 2km of the proposed development site, however, 5 ancient woodland sites were located within 2km of the site, including 'Rivenhall Thicks' which sits to the south of the site.
- 12.3.8 It is not considered that the ancient woodland 'Rivenhall Thicks' will be directly impacted by the proposals as there will be no deterioration and loss of ancient woodland habitat. Standing Advice from Natural England and the Forestry Commission is that where development is to occur, a buffer zone of at least 15m is formed between the woodland and any part of the development. Where possible, the buffer zone should contribute to the wider ecological network and/or be part of the green infrastructure of the area. Buffer zones can be planted with local and appropriate species but should not include drainage systems or any works which could damage root protection areas. There will be a suitable buffer exceeding 15m from the woodland edge. The buffer will be converted into neutral grassland. The proposed development will convert the existing arable habitat to grassland, this will be managed in a more environmentally sensitive manner with no annual ploughing, fertiliser application, spraying with herbicide or insecticide.
- 12.3.9 An Ecological Mitigation Plan has also been submitted which sets out the Applicant's intention to infill gaps in existing hedges with native planting, retain the existing pond with the presence of Great Crested Newts, provide 4 bat boxes, plant new hedgerows to provide more habitat and screening for the solar arrays, with additional woodland planting along the northern boundary. All existing hedgerows and trees would be retained.
- 12.3.10 In terms of Biodiversity Net Gain, development sites should lead to net biodiversity gain of at least 10% when the provisions of the Environment Act 2021 are implemented. The proposal will include a net increase of 50.48% of Habitat units and a net increase of 61.58% of hedgerow units, as

well as securing further ecological connectivity across the landscape via the hedgerow, woodland, and meadow creation.

- 12.3.11 The BDC Ecology Consultant has assessed the application and raises no objection. In terms of Skylark mitigation, the Officers did not support the proposed locations for the Skylark Plots as outlined within the Landscape and Ecological Mitigation Plan due to the eight Skylark plots being located immediately adjacent to approximately two-metre-high fencing which will unlikely provide suitable nesting habitat for Skylark, as the species would actively avoid the locations due to the risk of predation.
- 12.3.12 Consequently, it is highlighted that nesting within the site is relatively unlikely, given to close spacing of the solar panels and the number of boundary features which will increase the risk of predation. This includes the neutral grassland area proposed to be enhanced to the south of the site, as it is located adjacent to Rivenhall Thicks. Furthermore, whilst it is considered that Solar Farms will generally enhance foraging options for Skylark, it is highlighted that there is currently no agreed guidance or published research which details the full extent of these foraging benefits, compared to the loss of nesting territories. As a result, the officer recommended that an alternative Skylark Mitigation Strategy is secured to ensure bespoke compensation for breeding habitat and allow the LPA to demonstrate they have met their biodiversity duty under the NERC Act 2006. As a result, a Skylark Mitigation Strategy will require compensation measures to be provided on suitable land, during the lifetime of the solar farm. The implementation of the measures could be secured by way of condition of any consent if suitable compensation can be delivered in the Applicant's control. However, if suitable land is not available in the Applicant's control, then any compensation measures may be required to be secured via a legal agreement.
- 12.3.13 A number of conditions have also been requested notably a Construction Environmental Management Plan for Biodiversity, submission of a copy of Natural England Licence for Great Crested Newts, a Skylark Mitigation Strategy and a Landscape and Ecological Management Plan. It should also be noted that the proposal includes a grazing function to continue in between the panels, details of which would need to be submitted by way of condition within the Environmental Management Plan. As such, it is considered the development would comply with the above ecology related policies.

#### 12.4 Arboriculture

- 12.4.1 Paragraph 131 of the NPPF states that existing trees should be retained wherever possible. Policy LPP65 of the Adopted Local Plan sets out that trees which make a significant positive contribution to the character and appearance of their surroundings will be retained unless there is a good arboricultural reason for their removal. A Tree Survey and Arboricultural Impact Assessment accompanied the application.

- 12.4.2 There are several trees within hedgerows around the perimeters of the site, however, the major arboricultural features are a line of trees close to the existing site entrance, and the offsite woodland known as Rivenhall Thicks. The row of trees by the entrance are mostly oaks in early maturity. They are a significant feature and clearly visible from the public road.
- 12.4.3 No trees or hedgerows are to be removed as part of the proposal, however, although the footprint of proposal does not directly affect existing trees, space required for construction activities such as access for machinery, materials storage, welfare facilities, etc., has the potential to affect trees. Appropriate offsets to the roots protection zones of existing trees in such location would need to be ascertained.
- 12.4.4 Taking all of the above into consideration, it is concluded that the proposals would not result in significant harm to existing vegetation, including individual and groups of hedgerows, trees and nearby woodlands of importance. It is considered that any potential adverse impacts to existing trees and hedgerows could be mitigated by way of condition by the submission of a detailed Arboricultural Method Statement to ensure the adequate protection of vegetation during both the construction and operational phases of the development.

## 12.5 Loss of Agricultural Land

- 12.5.1 Paragraph 174 of the NPPF requires that the economic and other benefits of the best and most versatile agricultural land be taken into consideration when determining planning applications which would result in the loss of such land. Footnote 58 to Paragraph 174 states that (for Local Plan allocations) where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. Although this footnote relates specifically to plan-making and not the determination of planning applications it is still considered relevant insofar as it identifies the importance of the loss of agricultural land as a material planning consideration in the overall planning process.
- 12.5.2 Paragraph 6.28 of the Adopted Local Plan states that the majority of agricultural land in Braintree District is classified as Grade 2 or 3, with 65.8% (40,243 hectares) of agricultural land classified as Grade 2, and 29.9% (18,304 hectares) as Grade 3. The national agricultural land classification maps do not distinguish between Grade 3a and 3b agricultural land, which can only be established through more detailed survey work).
- 12.5.3 Best and most versatile agricultural land is classed as land within Grades 1; 2 and 3a of the Agricultural Land Classification and the NPPF. The application has been accompanied by an Agricultural Land Classification Assessment report. The assessment is based upon the findings of a study of published information on climate, geology, and soil in combination with a soil investigation carried out in accordance with the Ministry of Agriculture, Fisheries and Food 'Agricultural Land Classification of England and Wales:



Revised Guidelines and Criteria for Grading the Quality of Agricultural Land', October 1988 (the ALC Guidelines). In this case the majority of the site is classified as Grade 2 'Best and Most Versatile' (BMV) agricultural land. It should be noted that there is a discrepancy in the report submitted in terms of the site area, which states it as being approximately 32.9 hectares.

- 12.5.4 The ALC system provides a framework for classifying land according to the extent to which its physical or chemical characteristics impose long-term limitations on agricultural use.
- 12.5.5 The soil analysis tests undertaken as part of the assessment concluded that 23.4ha of the site is classified as Grade 3a (71.1%), with 9.5ha classified as Grade 2 (28.9%), both of which are categorised as best and most versatile agricultural land.
- 12.5.6 Natural England are required to be consulted on applications that involve the loss of over 20ha of BMV land. Natural England in their consultation response have stated that they had no objection to the application. They confirmed that the proposed development is unlikely to lead to significant long term loss of BMV agricultural land as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the development is undertaken to high standards. Although some components of the development, such as the construction of a substation, may permanently affect agricultural land, this would be limited to small areas.
- 12.5.7 The Powering up Britain Energy Security Plan and NPPF Framework explicitly states that 'we encourage deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvements'. The Applicant has confirmed that the land in between the two compartments will remain in agricultural use.
- 12.5.8 The loss of 31.1 hectares of the Districts BMV land (representing approximately 0.06% of the districts BMV land) as a consequence of this development would therefore weigh negatively in the balance against this proposal, but this loss is mediated when it is appreciated that Braintree as a District overall has a proliferation of BMV land. Furthermore, given the unavailability of brownfield land within the District and the evidence submitted with the application in relation to alternative sites, it is considered that the loss of BMV land would not be of a scale likely to significantly undermine the provision of such land throughout the District as a whole.
- 12.5.9 In any case, the loss of BMV land would weigh negatively in the planning balance against this proposal, but only to a limited extent given the fact that Braintree District has a proliferation of BMV land, and the loss is temporary overall. This temporary loss of a small percentage of BMV land would not

significantly undermine the provision of such land throughout the District as a whole. This consideration has been taken into account in the wider planning balance as detailed in the conclusion to this report.

## 12.6 Archaeology

- 12.6.1 Paragraph 194 of the NPPF advises that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, Local Planning Authorities should require developers to submit and appropriate desk based assessment and, where necessary, a field evaluation.
- 12.6.2 The Essex Historic Environment (HER) Record shows that the proposed development will affect a site of archaeological interest. The site of the proposed solar farm lies to the northwest of the scheduled monument at Rivenhall, a Roman villa complex which continued in use into the Saxon period and east of the scheduled monument of Cressing Temple, the earliest English settlement of the Knights Templars. Multi-period remains have been recovered from both scheduled sites and recent archaeological excavation to the north near Bower Hall has revealed Bronze Age field systems and settlement activity.
- 12.6.3 A Desk Based Assessment was submitted with the application which established that there is an archaeological interest within the site. The Desk Based Assessment concluded that the potential for and significance of these remains cannot be accurately assessed on the basis of the available evidence. A geophysical survey was completed which was been successful in the detection of anomalies which indicate several phases of archaeological activity including three probable areas of settlement activity, one of which covers a sizable area.
- 12.6.4 A further Written Scheme of Investigation was submitted during the process of the application following a request for more information from the Historic Environment Officer. The Historic Environment Officer is satisfied with the information provided but recommended further information by way of appropriate conditions prior to any works starting on site.

## 12.7 Flooding

- 12.7.1 Part 14 of the NPPF sets out the Government's stance on climate change, flooding, and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided. Policy LPP76 of the Adopted Local Plan has the same objectives.
- 12.7.2 Solar farms have the potential to interrupt overland flow routes, reduce the amount of rainfall absorbed into the ground and increase the rate and volume of surface water runoff. Most of the development is solar panels which are supported on piled struts, and thereby the surface area of the site is comparatively small in comparison to the overall development site area,

however, there are some impermeable areas across the site, mainly the substation area, and where transformers sit. In general, and especially on sites that are flat or with shallow slopes, such as the proposal, runoff from solar panels is able to infiltrate into the soil either beneath the panels, or under adjacent panels. This is aided by the rainwater gap between the panels.

- 12.7.3 A flood risk assessment was submitted with the application. The site is located exclusively in Flood Zone 1, therefore at low risk of flooding. Due to the limited amount of impermeable surfacing being created the Applicant has demonstrated that the proposal would only have a small effect upon run-off rates from the site. The LLFA have raised no objection to the development.
- 12.7.4 Officers are satisfied in this case that from a flood risk and sustainable drainage perspective, the proposal is acceptable in planning terms. No further conditions have been recommended in this regard.

## 12.8 Highway Considerations and PRoW

- 12.8.1 NPPF Paragraph 105 states that the planning system should actively manage patterns of growth; and that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- 12.8.2 Paragraph 110 of the NPPF requires that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development on the road network would be severe. Paragraph 100 of the NPPF states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.
- 12.8.3 Policy LPP42 of the Adopted Local Plan seeks to safeguard existing Public Rights of Way... development which would adversely affect the character of, or result in loss of existing or proposed rights of way, will not be permitted unless alternative routes or diversions can be arranged which are at least as attractive, safe and convenient for public use.
- 12.8.4 Discussions have been ongoing with the Highways Authority during the course of the application and additional information was requested by way of a speed survey check and visibility splay information at the site access. In terms of traffic generation associated with the development, the Applicant submitted a Transport Assessment and Construction Management Plan to accompany the application. In terms of access into the site, the site will be accessed via the existing field access off Church Road. Church Road is a single carriageway rural road, approximately 5.5 m wide, unlit and subject to the national speed limit. The access is located on a sharp bend before you enter into Park Road. Due to

the horizontal alignment of the road, advance warning signs suggest a 20mph maximum speed on the approach to bends in the road.

- 12.8.5 In terms of construction, which is envisaged to last for 16 weeks, a construction compound would be set up to the within the northern area of the site, near to the access track. The construction compound would include contractor facilities, car parking, storage, and loading/ unloading areas. A PRow (105\_11) runs along the edge of the eastern section of the site through a wooded area.
- 12.8.6 It is anticipated that approximately 238 deliveries (476 two-way movements) could be made by HGVs during the enabling works phases, at an average of around 22 deliveries, or 44 two-way movements, per day. If a 10% buffer is applied to represent a worst case, the number of deliveries could be 24 per day. It should also be noted that the majority of vehicle trips in this phase will occur during the delivery of aggregate for the construction of the internal access track and compound.
- 12.8.7 It is anticipated that approximately 510 deliveries (1020 two-way movements) could be made by HGVs during the construction phase of the solar farm, at an average of around 22 deliveries, or 44 two-way movements, per day. If a 10% buffer is applied to represent a worst case, the number of deliveries would be 24 per day.
- 12.8.8 During operation, there is anticipated to be up to two visits to the site per month for maintenance which would typically be made by a light van or a 4x4 type vehicle.
- 12.8.9 A number of mitigation measures have been proposed within the Transport Assessment which include but is not limited to road signs, wheel washing and requirements to switch engines off when not in use.
- 12.8.10 An existing PRow (105\_11) runs through the centre of the site from north to south, with access gained to the route from the existing farm track of Church Road. The vehicular access route into the site will follow the definitive route of the PRow for approximately 250m of its length. At which point the PRow crosses the track and follows a curved route in the adjacent field. The PRow then crosses the southern access track towards Rivenhall Thicks before travelling in a southerly direction. The Applicant has confirmed that they do not intend to divert this PRow. Details of how the construction traffic can be adequately managed during the construction process to ensure that there will be no conflict with users of the PRow has not been submitted, however can be managed by way of condition. The PRow Officer requested that planting does not occur within 3m of the PRows and the site layout plan has been amended to address this.
- 12.8.11 The Highway Authority has no objection to the application subject to a number of conditions including the requirement a temporary Traffic Regulation Order for the site access during the construction process to reduce the speed limit of Church Road in the vicinity of the access. Further

conditions and informatives have been recommended to mitigate any potential impacts of the site on the PRoW and Highways network. Officers are satisfied in this case that from a highways perspective, the proposal is acceptable in planning terms, subject to conditions, and there is no impact on highway safety. Conditions and relative Informatives could be recommended to ensure that the relevant requirements discussed above are controlled.

## 12.9 Impact on Neighbouring Residential Amenity

- 12.9.1 Paragraph 130 of the NPPF seeks to ensure good standards of amenity for existing and future users whilst Paragraph 185 seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions including noise and light pollution. Paragraph 131 of the NPPF requires that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Policy LPP52 of the Adopted Local Plan seeks to secure the highest possible standards of design and layout in all new development. The design approach to the development is set out in detail in the accompanying Design and Access Statement. Policy LPP73 of the Adopted Local Plan also states that renewables energy schemes will need to demonstrate that they will not result in unacceptable impacts on residential amenity.
- 12.9.2 The site is located in the countryside with only a few residential properties in the immediate vicinity of the site, these are namely Waterfall Cottages, Rivenhall Place, West Ford Farm, North Ford Farm, South Ford Farm and an unnamed barn. All other properties in the area would be separated by intervening agricultural fields. This does not however mean that there would be no impact on these properties.
- 12.9.3 It is important to note that a “right to a view” is not a planning consideration. Therefore, while in landscape terms there would be an impact on the closest residents, this in itself is not tantamount to detrimental harm to the amenity of those occupiers. As such, for the purposes of assessing neighbour impact (not landscape analysis), an objective assessment is required as to whether the Solar Panels and other site equipment would unacceptably harm the amenity of occupiers by virtue of noise, overshadowing, outlook, overbearing or overlooking.
- 12.9.4 The arrays themselves, during operation in daylight hours, have no running parts and emit no carbon, noise smell or light. Once installed, the system itself needs minimum maintenance and will be unmanned.
- 12.9.5 In terms of noise impact from the development, the development will include various items of plant which will generate noise. This includes string inverters at the end of the solar arrays, transformers, centralised inverters and cooling plant at the substation. A Noise Impact Assessment was submitted to support the application. The Noise Assessment identified the nearest noise receptor as being Waterfall Cottage to the north of the site.

The report concluded that the plant rating noise level does not exceed the background sound level during the hours of operation. The British Standard states that where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact, depending on the context.

- 12.9.6 BDC Environmental Health Officer has assessed the details and whilst raises no objection to the scheme but has observed that the Noise Impact Assessment does not use a different averaging time period of 15 minutes nor a different background noise level for the night time noise calculation. Whilst the Officer has stated that the development should not lead to a significant impact conclusion, it would be appropriate to address this point and to provide an agreed noise mitigation scheme once the final specification of noise producing elements (e.g. inverters) of the installation is. In this regard, an updated Noise Survey by way of condition to ensure the exact specification of plant does not give rise to any detrimental impacts.
- 12.9.7 In terms of light pollution, details of the lighting have not been submitted with the application. This could be controlled by condition.
- 12.9.8 In terms of traffic generation associated with the development, the Applicant submitted a Transport Assessment and Construction Management Plan to accompany the application. The Assessment concludes that traffic would be at its peak during the 16-week construction period. The details confirmed that construction activities and deliveries will be carried out Monday to Friday 08:00-1800 and between 08:00 and 13:30 on Saturdays. No construction activities or deliveries will occur on Sunday or Public Holidays. Where possible, construction deliveries will be coordinated to avoid vehicle movements during the traditional AM peak hour (08:00-09:00) and PM peak hour (17:00-18:00) and during the end of the school day (14:30 - 15:30).
- 12.9.9 A Construction Traffic Management Plan was submitted with the application and has been amended following feedback from the Highways Officer. Construction traffic in any case is temporary in nature; any disturbance will be short term. Once the panels are in operation, the site would have a very low output of vehicle movements with approximately two visits to the site per month in a light van or 4x4 vehicle. ECC Highways Officers are satisfied with the information provided. Conditions relating to construction traffic management plan and hours of operation would control the impacts of the proposal during the assembly of the site. The use of the site is not considered to result in unacceptable noise and disturbance.
- 12.9.10 The panels themselves, at a maximum of 3.1m in height are not considered to be overbearing in relation to proximity from existing residential properties.
- 12.9.11 The Applicant submitted a Glint and Glare Assessment to accompany the application. There is little guidance or policy available in the UK at present

in relation to the assessment of glint and glare from Proposed Development developments. However, it is recognised as a potential impact which needs to be considered for a proposed development. The Applicant's Glint and Glare report assessed 23 residential receptors that will experience solar reflections based on solar reflection modelling and whether the reflections will be experienced in the morning (AM), evening (PM), or both. The report concluded that solar reflections are possible at 13 of the 23 residential receptors assessed within the 1km study area. The initial bald-earth scenario identified potential impacts as high at seven receptors, medium at two receptors, including one residential area, low at four receptors, and None at the remaining 10 receptors, including one residential area. Upon reviewing the actual visibility of the receptors, glint and glare impacts remain high at four receptors, low at one receptor, and none at 18 receptors, including one residential area. Once mitigation measures were considered, impacts for all receptors reduced to none.

12.9.12 Whilst it is apparent that the solar farm once mitigated with planting, will reduce the glint and glare associated with the proposal to existing residential properties, the full effects of the mitigation will take 8-10 years to establish and therefore the initial impacts on residential amenity are high. Taking away the bald earth scenario and looking at the review of the actual visibility of the receptors, glint and glare remain high at four receptors prior to mitigation being established. Whilst this weighs negatively against the development, recent appeal decisions have taken this point into account and Inspectors have concluded in many instances that the mitigation should be taken into consideration in relation to the magnitude of the impacts. It is therefore considered that given the Applicant's report identifies the glint and glare after mitigation as being reduced to 'none', Officers do not consider that this can form a reason for refusal. Overall, in terms of light pollution, there would be an initial glint/glare impact on four residential receptors which will be high. This impact will however be reduced significantly over time while mitigation planting becomes established, as such the weight to be attached to this harm is considered less in the planning balance.

12.9.13 Notwithstanding the Landscape Character Assessment and Heritage Assessment, the proposal would inevitably be visible from several nearby residential properties given the open nature of the site at present, particularly when proposed mitigation is not established. The properties that would experience high glint and glare are namely 1 Rivenhall Cottages, the unnamed residential barn to the south east of the site on Church Road and North Ford Farm and South Ford Farm on Church Road adjacent to the site, with a low impact at West Ford Farm. There would also certainly be an impact on immediate views, particularly from first floor windows, for these properties. When mitigation is established, whilst glint and glare would be reduced to 'none' it is considered that there would remain an impact on views, particularly from first floor windows at these properties. Whilst there is vegetation separating views between the site and Rivenhall Place, there would be an impact on views through gaps in the existing hedges until

mitigation is established. This detrimental impact weighs negatively against the development.

## 12.10 Impacts on Aviation

12.10.1 Policy LPP73 of the Adopted Local Plan states that energy schemes will be encouraged where the benefit outweighs the harm air traffic and safety. The Applicant submitted a Glint and Glare Assessment to accompany the application. The Glint and Glare Assessment looked at a 30km study area for aviation receptors. 13 aerodromes are located within the 30km study area; 2 of which, Earls Colne Airfield and Andrewsfield Aerodrome which required an assessment due to the Proposed Development falling outside their respective safeguarding buffer zones.

12.10.2 The report found that there would be no impacts from the development on the four runways and two Air Traffic Control Towers combined at both airfields respectively.

12.10.3 Officers have considered the findings of the report and have no reason to disagree with its assessment or findings. Officers did also consult the Civil Aviation Authority and Earls Colne Airfield, however no comments were received.

12.10.4 As such, from an aviation perspective, it is considered that the proposal is acceptable.

## 12.11 Construction, Operation and Decommissioning

12.11.1 Policy LPP73 of the Adopted Local Plan states that renewable energy schemes must be capable of efficient connection to existing national energy infrastructure. The Applicant has confirmed that they have secured a grid connection at the site which will utilise the existing overhead cable. This type of connection has significant advantages over a standard cable connection to the substation of the District Network Operator. A direct point of connection on site is more efficient, with less energy lost. An on-site connection is also beneficial as it omits the requirement for often disruptive works within the highway and verge required to install a cable connection or additional grid infrastructure and upgrades offsite.

12.11.2 For any temporary development, construction should minimise disturbance to the ground and surrounding environment. The Applicant has confirmed that the panels would sit on a metal frame which is piled into the ground. In archaeologically sensitive areas, the frame that supports the panels would be fixed into concrete "feet". Whilst there would be ground disturbance, is considered that this can be controlled through a Construction Environmental Management Plan prior to the commencement of development. Should permission be granted, such a condition could be imposed.



12.11.3 In terms of operation, Policy LPP73 of the Adopted Local Plan states that renewable energy schemes which are accepted on BMV land, should demonstrate how the installation allows for continued agricultural use and/or enhances biodiversity around the panels. The proposed solar farm will enable a continued agricultural use, as the site will be suitable for the grazing of sheep. Sheep are commonly used by solar farm operators as an effective method of controlling grass and weed. The grazing method and frequency could be controlled by way of condition.

12.11.4 In terms of decommissioning, Policy LPP73 of the Adopted Local Plan also states that a condition will be attached to planning permissions for energy development schemes to require the site to be decommissioned and restored when energy generation use ceases or becomes non functioning for a period of 6 months or more. Such a scheme shall include measures to restore and protect soil quality. The Applicant has stated that they will agree to a condition requiring a decommissioning scheme to be submitted to and approved by the Council before the decommissioning works commence. In addition to that, and separate to the planning process, the Applicant has stated that they have secured a bond with the landowner to ensure that the landowner is not left with the full liability for decommissioning costs. This requirement is an agreed term of the lease with the landowner, the details of which could be requested by way of condition. The Applicant has also stated that they will commit to a recycling scheme of the decommissioned solar panels which can be included by way of condition. 99% of a solar panel is recyclable, and there are well established industrial processes to do this. It is therefore considered that the decommissioning of the site can be controlled by way of condition.

## 12.12 Fire Risk

12.12.1 Fire risk has also been considered as part of this application. Officers consulted the Health and Safety Executive (HSE), Environmental Health Officer and Fire Service on the application.

12.12.2 The HSE stated that Solar Farms are usually not a relevant development in relation to land-use planning in the vicinity of major hazard sites and major accident hazard pipelines. This is because they do not, in themselves, involve the introduction of people into the area. HSE's land use planning advice is mainly concerned with the potential risks posed by major hazard sites and major accident hazard pipelines to the population at a new development (e.g. control of hazards site or nuclear site). The application also passed the HSE self-assessment which is completed by the Local Planning Authority when required.

12.12.3 The Environmental Health Officer raised no objections with regards to possible fires, primarily commenting on possible noise impacts from the generators.

12.12.4 The Fire Service response was more targeted and provided a list of criteria that the development should adhere to in order to provide suitable access

for fire engines, in the unlikely scenario of a fire. It sets out that these requirements are covered under building regulations. The scheme was amended to ensure that the road access was a minimum 4m in width for fire engines.

- 12.12.5 The Applicant has stated that in the unlikely but potential event that a fire were to start at the site, the source of a fire would be an electrical fault. Such fires are extinguished with foam and not water and would be restricted to the inverters and not the panels and frames themselves.
- 12.12.6 Officers are satisfied in this case that from a fire safety perspective, the proposal is acceptable in planning terms. Conditions and relevant informatives could be recommended to ensure that the relevant requirements discussed above are controlled. This could be in the form of a management plan that could demonstrate how the facility could be operated safely.

### 12.13 Public Benefits/ Economy

- 12.13.1 Paragraph 81 of the NPPF states that planning policy and decisions should place significant weight on the need to support economic growth and productivity, identifying that Britain should capitalise on areas where it can be a global leader in innovation, and address any challenges for the future.
- 12.13.2 In terms of public and economic benefits, the Applicant submitted an Economic Impact Assessment to accompany the application. The proposed solar farm would have a maximum export capacity of up to 22.5MW which would provide enough electricity to power around 5,768 homes a year, equivalent to 9% of homes in the Braintree. The Economic and environmental benefits of the proposal are summarised as follows:
- 12.13.3 The Applicant estimates that the construction/installation of the proposed development will take approximately 16 weeks. Labour requirements are expected to ebb and flow over this period, peaking at 50 on-site Full-Time Equivalent (FTE) workers and a further 65 indirect and induced FTE jobs from the supply chain.
- 12.13.4 The extent to which the employment opportunities created by the construction/installation of the proposal will be taken up locally cannot be estimated with any certainty until contracts have been let. Based upon experience, however, it would be reasonable to expect at least a proportion of these jobs to be taken up by the local workforce. The Applicant has stated that they will encourage the use of locally based contractors (and locally sourced materials) where possible, with a view to maximising the local economic benefits of the development.
- 12.13.5 In addition, local businesses would generally be expected to benefit from a temporary increase in demand as a result of expenditure by direct and indirect workers during construction/installation. This could be expected to include wage spending of workers in shops, bars, restaurants and other

services and facilities. This benefit would however be very short lived, covering just 16 weeks during the construction period.

- 12.13.6 The Applicant has stated that, once built and operational, the proposal is likely to support 2 permanent FTE jobs with the potential for an additional job via a shepherd. However, a FTE job for a Shepherd on the site is questionable.
- 12.13.7 The Applicant has confirmed that they are committed to providing Community Benefit Funds (CBF). The Applicant will discuss the principles of that CBF with local stakeholders in due course. Typically, a CBF would be set up so it could be administered by the relevant Parish Council and used to support local environmental projects.
- 12.13.8 Officers are however unable to attribute any weight to this benefit; it would be formed by way of legal agreement separate to Braintree District Council. Therefore Braintree, as the relevant Local Planning Authority, would not be the enforcing authority as it would not be party to the agreement. There is also no policy basis upon which to secure this benefit in planning terms. As such, Officers note the proposed community benefit fund, however no weight is given to it in the planning balance.

### 13 PLANNING BALANCE AND CONCLUSION

- 13.1.1 As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the site lies outside of a designated development boundary and therefore conflicts with Policy LPP1 of the Adopted Local Plan. Furthermore, the most relevant and important policy in the Adopted Local Plan is Policy LPP73 which refers specifically to renewable energy schemes and their impacts. These policies are considered to be up to date by way of their consistency with the NPPF and National Guidance.
- 13.1.2 The presumption in favour of sustainable development sits at the heart of the NPPF. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
  - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-

designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and

- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

13.1.3 Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. In this case, the proposed development would be contrary to Policy LPP57 of the Adopted Local Plan. Furthermore, it is considered that the application of policies in the Framework provide a clear reason for refusing the proposed development. This is because there are adverse impacts in regard to designated heritage assets and it is considered that the identified heritage harm is not outweighed by the public benefits of the proposed development.

13.1.4 The adverse impacts and benefits of the proposed development are set out below.

## 13.2 Summary of Public Benefits

### **Renewable Energy**

13.2.1 The proposal is a renewable energy project, which in principle is supported by National and Local Policy on account of the benefits it would deliver by providing carbon free electricity to the network. The proposal would generate up to 22.5 MW of renewable energy, which could provide approximately enough energy to power over 5,756 homes a year. The site would directly contribute to the government's aim to achieve the UK's carbon net zero targets to limit the impacts of global warming. Overall, it is considered that the benefit of the electricity generated by the solar panels would carry significant weight and the ability of the scheme to provide sustainable energy to the wider network weighs heavily in its favour.

### **Employment Opportunities**

13.2.2 The proposal would provide limited benefits by providing employment opportunities in the construction phase and additional more limited employment opportunities during the operational phases in addition to generally contributing to sustaining jobs in the wider solar power industry. Local businesses would benefit from a temporary short-lived increase in demand as a result of expenditure by direct and indirect workers during the construction/installation phase. This economic benefit is given very

limited weight in the overall planning balance given the short lived in the small quantity of jobs it would create, given the scale of development.

### **Biodiversity Net Gain**

- 13.2.3 Biodiversity net gain would be achieved. The proposals indicate that a net increase of 50.48% of Habitat units and a net increase of 61.58% of hedgerow units could be achieved, as well as securing further ecological connectivity across the landscape via the hedgerow, woodland and meadow creation with a richer and more varied ecological habitat being provided in comparison to the existing lower value arable fields which form the majority of the application site. This benefit weighs moderately in its favour.
- 13.2.4 The above economic and environmental benefits of the scheme can be given limited weight in the overall planning balance.

### 13.3 Summary of Adverse Impacts

- 13.3.1 The adverse impacts and the weight that should be given to these factors are set out below:

#### **Landscape Impact**

- 13.3.2 The proposal would detract from the pleasing rural scene and erode the qualities of the 'gently undulating farmland, irregular and predominantly large arable fields' which the area is characterised by and would therefore result in major adverse harm to the character of the area. The negative impact of the development on the character and appearance of the existing landscape would be significant due to the level of encroachment and intrusion of built development into the countryside. Furthermore, there would be a significant impact on the character and views from the PRoWs within the site, namely PRoW 105\_11 and 108\_66.
- 13.3.3 Paragraph 158 of the NPPF states when determining planning applications for renewable and low carbon development, Local Planning Authorities should inter alia "(b) approve the application if its impacts are (or can be made) acceptable." It is therefore appropriate to assess the harm of the application primarily at a later stage once the mitigation measures have had some time to become established. Whilst mitigation is proposed, the harm will still remain to the character and appearance of the area due to the introduction of planting in an open panoramic landscape. When the solar farm is decommissioned, this impact would remain as the mitigation planting would remain in situ as a permanent feature in the landscape. This constitutes a permanent major adverse impact to the character of the area through the complete loss of views across the landscape. It is considered this harm should be given significant weight in the overall balance as the impacts are more localised contrary to Policies LPP67, LPP73, LPP42 of the Adopted Local Plan and Paragraph 174 of the NPPF.

## **Heritage Impact**

- 13.3.4 In terms of heritage assets, the proposal would result in less than substantial harm to St Mary and All Saints Church (Grade I) by decreasing the ability for the church to be appreciated in its panoramic landscape setting from a publicly accessible route, the degree of harm would be towards the lower end of the scale. The proposal would result in less than substantial harm to the significance of Rivenhall Place (Grade II\*) by failing to sustain the character of its important landscape setting.
- 13.3.5 It is clear that there will be a public benefit as a result of the proposal generating renewable energy, however, Officers consider that the harm caused to the setting of the Heritage assets, outweigh the public benefits of the proposal, those being electricity generation and short lived job opportunities during the construction process, and would therefore weigh against the development in this regard. As such, having given this harm considerable importance and weight, it is not considered that that the public benefits would outweigh this harm and therefore the heritage balance has not been satisfied. The proposal would therefore result in an adverse impact to the setting and experience of designated heritage assets which are unable to be mitigated effectively due the surrounding landscape character. The proposal would not protect and enhance assets of historical value, contrary to Policies SP7, LPP1, LPP47, LPP52, LPP57 and LPP73 of the Adopted Local Plan and Paragraph 202 of the NPPF.
- 13.3.6 The above conflict with Policies of the Adopted Local Plan relevant to Heritage Assets would give rise to harm of significant weight.

## **Residential Amenity Impact**

- 13.3.7 There would be an initial impact of glint and glare on 5 residential receptors, however these impacts would reduce significantly over time with the mitigation measures proposed. As such, it is considered that this harm can only be given limited weight.

## **BMV Agricultural Land**

- 13.3.8 The proposal would result in the temporary loss of 31.1ha of Grade 2 and 3a agricultural land, both categorised as Best and Most Versatile Agricultural land. However, this loss is mediated when it is appreciated that Braintree as a District overall has a proliferation of BMV land. Furthermore, given the unavailability of brownfield land within the District and the evidence submitted with the application in relation to alternative sites, it is considered that the temporary loss of BMV land would not be of a scale likely to significantly undermine the provision of such land throughout the District as a whole and is therefore considered to have moderate weight in the overall planning balance.

## **Conflict with the Development Plan and NPPF**

- 13.3.9 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.
- 13.3.10 Conflict has been identified with the Development Plan, specifically Policy LPP1. In this case the policy does not have the effect of applying an ‘in principle’ restriction to development of its kind but it does require development proposed within its development boundaries to pass the test of material adverse detriment. Conflict is also identified with Policy LPP52, LPP57 and LPP73 of the Adopted Local Plan which states that renewable energy schemes will be encouraged where the benefits of renewable energy schemes outweigh the harm to or loss of Natural landscape and other natural assets, landscape character, nature conservation, Best and Most Versatile Agricultural Land, Heritage Assets, including the setting of heritage assets, public rights of way, air traffic control, MOD operations and watercourse engineering and hydrological impact. Full weight is therefore attributed to the conflicts identified.
- 13.3.11 For the same reasons as noted above, the proposal would not be ‘sustainable development’ and the application of policies in the NPPF that protect heritage assets and landscape character and provide a clear reason for refusing the development proposed. Further conflicts have also been identified with Paragraphs 130, 174, 195 and 202 of the NPPF. These conflicts amount to conflict with the NPPF as a whole and this harm carries significant weight.

## 13.4 Conclusion

- 13.4.1 In this case, the proposed development would be contrary to Policy LPP57 of the Adopted Local Plan. Furthermore, it is considered that the application of policies in the Framework provide a clear reason for refusing the proposed development. This is because there are adverse impacts in regard to designated heritage assets. It is considered that the harm caused to the setting of the Heritage assets, outweigh the public benefits of the proposal. The proposal would therefore be contrary to Paragraph 202 of the NPPF and Policy LPP57 of the Adopted Local Plan.
- 13.4.2 In addition, the proposal would introduce a new development to an area of open countryside which would also result in the insertion of unnatural permanent mitigation planting in such a location that would detract from the open character of the area. The proposals by reason of its siting, size and scale would have a harmful impact upon the rural character and appearance of the area. The proposals would significantly harm the intrinsic landscape character and beauty of the countryside resulting in detrimental landscape and visual effects from a number of Public Rights of Way, residential properties and Heritage Assets failing to perform the

environmental role of sustainability, contrary to Policies SP1, LPP42, LPP52, LPP67 and LPP73 of the Adopted Local Plan and Paragraph 174 of the NPPF.

- 13.4.3 The proposal is therefore considered to be contrary to the Development Plan when taken as a whole and therefore permission should not usually be granted. In this case, material considerations do not indicate the Development Plan should not be followed, and in fact, the wider planning balance indicates that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 13.4.4 Against this context, it would be recommended that planning permission be refused for the proposed development. Consequently, had an appeal against non-determination of the application not been lodged, it would have been recommended that planning permission be refused for the proposed development.

14. RECOMMENDATION

- 14.1 It is RECOMMENDED that the following decision be made:  
Application REFUSED for the reasons outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER



APPENDIX 1:

REASON(S) FOR REFUSAL / SUBMITTED PLAN(S) / DOCUMENT(S)

Submitted Plan(s) / Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	343/PG/19	N/A
Location Plan	343/PG/2	E
Proposed Plans	PG-343-20-1	N/A
Proposed Plans	PG-343-20-2	N/A
Proposed Plans	PG-343-20-4	N/A
Proposed Plans	PG-343-20-5	N/A
Proposed Plans	PG-343-20-6	N/A
Proposed Plans	PG01	N/A
Flood Risk Assessment	343/SP08	1
Flood Risk Assessment	Addendum 25.04.2022	
Site Plan	343-PG-12	E
Other	343-PG-21	B
Other	Agricultural Land Classification KCC3189	February 2022
Arboricultural Report	UTC-0466-03-AIA	18.10.21
Other	Archaeology Desk Based Assessment 243810.01	1
Other	Biodiversity Checklist	04.11.2021
Other	Biodiversity Net Gain Metric	28.07.2022
Other	Biodiversity Net Gain Report 343/BNG	2
Management plan	2107-082/CTMP/01	C
Other	Gradiometer Survey Report 243811.03	1
Other	Ecological Impact Assessment 343/EcIA	1
Other	Economic Impact Assessment	N/A
Flood Risk Assessment	343/PG/24	N/A
Other	Glint and Glare Assessment	N/A
Heritage Statement	TJC2022.49	1
Heritage Statement	2243840.02	2
Heritage Statement	Heritage Mitigation Strategy	2
Other	Landscape and Visual Impact Assessment PG/343/11/21/LVIA	3
Other	Response to LVIA Review	12.05.2022
Flood Risk Assessment	SuDs Water Quantity Technical Assessment	N/A
Noise Details	9453/JC	1.0
Other	Site Selection Assessment July 2022	N/A

## Reason(s) for Refusal

### Reason 1

There are several heritage assets in close proximity to the site including a Grade I listed building (St Mary and All Saints Church), a Grade II\* listed building (Rivenhall Place) and a number of Grade two listed buildings and a Scheduled Ancient Monument. The open character of the existing site positively contributes to the identified heritage assets setting through the open nature of land with views through to the wider landscape. The proposal would result in less than substantial harm to St Mary and All Saints Church (Grade I) by decreasing the ability for the church to be appreciated in its panoramic landscape setting from a publicly accessible route. The proposal would result in less than substantial harm to the significance of Rivenhall Place (Grade II\*) by failing to sustain the character of its important landscape setting.

Having regard to the guidance in Paragraph 202 of the National Planning Policy Framework, the Local Planning Authority has considered the public benefits associated with the development but concludes that these would not outweigh the harm caused to the significance and setting of the designated heritage assets. The proposal would therefore be contrary to Policies SP7, LPP1, LPP47, LPP52, LPP57, and LPP73 of the Adopted Local Plan and Paragraph 202 of the NPPF.

### Reason 2

The proposal would introduce a new development to an area of open countryside which would also result in the insertion of unnatural permanent mitigation planting in such a location that would detract from the open character of the area. The proposals by reason of its siting, size and scale would have a harmful impact upon the rural character and appearance of the area.

The proposals would significantly harm the intrinsic landscape character and beauty of the countryside resulting in detrimental landscape and visual effects from a number of Public Rights of Way, residential properties and Heritage Assets failing to perform the environmental role of sustainability, contrary to Policies SP1, LPP42, LPP52, LPP67 and LPP73 of the Adopted Local Plan and Paragraph 174 of the NPPF.

## Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying the areas of conflict with adopted Policy and National Planning Guidance and discussing these with the applicant either at the pre application stage or during the life of the application. However, as is clear from the reason(s) for refusal, the issues are so fundamental to the proposal that it would not be possible to negotiate a satisfactory way forward in this particular case.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP42	Sustainable Transport
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems

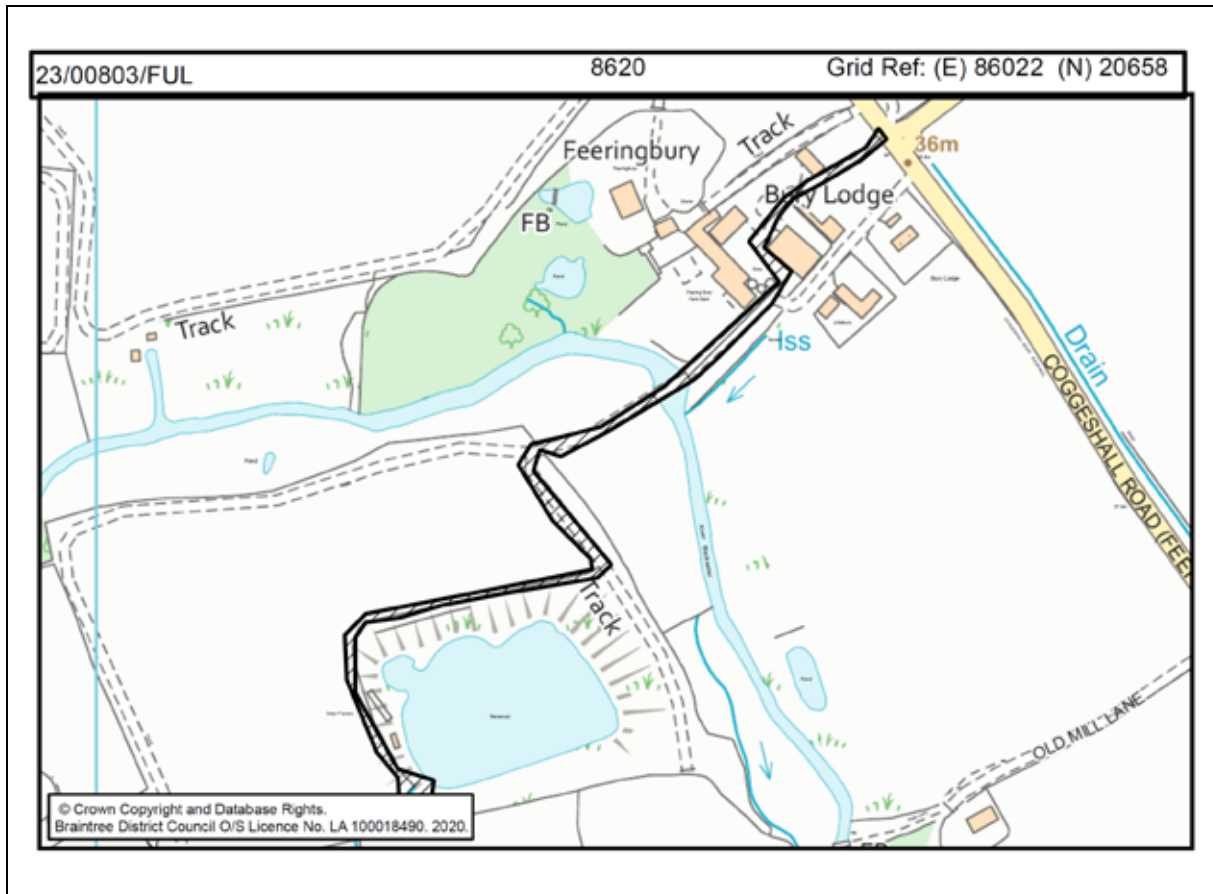
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
23/00039/NONDET	Installation of solar farm and associated development.		
21/01998/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6) - Proposed solar photovoltaic farm and associated infrastructure.	Screening / Scoping Opinion Adopted	07.07.21

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 5th September 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/00803/FUL
<b>Description:</b>	Installation of ground-mounted solar panel array.
<b>Location:</b>	Coggeshall Hall Farm Yard, Coggeshall Road, Kelvedon
<b>Applicant:</b>	G & S Coode-Adams, Feeringbury Manor, Coggeshall Road, Feering, Colchester, Essex, CO5 9RB
<b>Agent:</b>	Grace Gardiner, Whirledge And Nott, Lubbards Farm, Rayleigh, SS6 9QG
<b>Date Valid:</b>	30th March 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Lisa Page For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2516, or by e-mail: <a href="mailto:lisa.page@braintree.gov.uk">lisa.page@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> </ul>

	<p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/00803/FUL.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013 – 2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>



## 1. EXECUTIVE SUMMARY

- 1.1 The application seeks a 30kw ground mounted solar array of 275m<sup>2</sup>, consisting of four rows of panels, each measuring 12 x 3 metres. The panels would be mounted on a metal frame to a maximum height of 2.1 metres. It would be sited adjacent to a reservoir and would, in conjunction with an existing 10kw array at the site, provide electricity to enable the existing irrigation system to work to its best efficiency to water crops at the farm.
- 1.2 The NPPF and local planning policies, as well as wider Government legislation is supportive of solar energy developments in principle (provided that the environmental impacts can be appropriately managed), and thus the principle of development is supported and acceptable in this case.
- 1.3 The siting of the development, and the size and scale of the panels and mounting, is considered limited, and would be appropriate in terms of the context of the site. Although the development would be seen in views from the Public Right of Way (PROW) that runs close of the site, there would be no unacceptable adverse impacts upon the landscape character or similar.
- 1.4 The application is supported by an Ecological Assessment Letter relating to the likely impacts of development on designated sites, protected and Priority Species & Habitats. This provides certainty for the LPA of the likely impacts on designated sites, Protected and Priority Species & Habitats and, with appropriate mitigation measures secured, the development can be made acceptable. Biodiversity net gain would also be secured (via condition) and could include native tree/shrub planting, wildflower seeding, bird nesting boxes, and /or solitary beehives/insect houses/refugia.
- 1.5 Highway matters are considered acceptable. The application has been submitted with a Construction Management Plan (CMP). Due to the small scale of the development, the number of vehicles and their associated movements would be minimal, and there would be no implications for highway capacity or safety. Additionally, the proposal would not interfere with the PROW.
- 1.6 There are no residential properties within visible distance of the site, and thus the development would not result in an impact on residential amenity.
- 1.7 The site lies within Flood Zone 1 (a low probability of flood risk). Given this and the nature of the application, flood risk and drainage matters would not be a constraint to development.
- 1.8 It is therefore recommended that planning permission be granted for this sustainable development.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Minor planning application for a Renewable Energy Scheme.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The site is located with a countryside location, approximately 2.2km south of Coggeshall and approximately 1.7 km north of Kelvedon.

5.2 The site is an area of agricultural land adjacent to an existing farm reservoir, approximately 600m north-east of the farmyard of Coggeshall Hall Farm.

5.3 There are no designated or non-designated heritage assets or scheduled monuments within the locality.

5.4 The site is located in Flood Zone 1 (a low risk of flooding).

6. PROPOSAL

6.1 The farm business (G & S Coode-Adams) grows predominantly blackcurrants and vines, which are watered via an existing irrigation system, pumped from the main reservoir on the farm. There is currently a 10kw solar array in place to support the electric pump, however it is understood that this does not have enough capacity to fully operate the pump system.

6.2 The application seeks planning permission for the erection of a 30 kw ground mounted solar array to be located adjacent to the reservoir to provide electricity for the water pump. The panels would occupy an area of 275m<sup>2</sup> and would consist of four rows of panels (each measuring 12 x 3 metres) mounted on a metal frame. The maximum height of the structures would be 2.1 metres.

6.3 The existing solar array would be retained, and the two facilities would operate together to enable the wider irrigation system to work to its best efficiency.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 BDC Ecology

7.1.1 No objections subject to securing ecological mitigation and enhancement measures.

### 7.2 BDC Environmental Health

7.2.1 Respond with no adverse comments.

### 7.3 ECC Highways

7.3.1 No objections subject to a condition in relation to public footpath No.4 (Kelvedon) to be maintained free and unobstructed at all times.

## 8. PARISH / TOWN COUNCIL

### 8.1 Kelvedon Parish Council

8.1.1 The Parish Council made comments in regard to the need for an ecological survey for protected species.

## 9. REPRESENTATIONS

9.1 The application was advertised by way of site notice and newspaper advertisement. No letters of representation have been received.

## 10. PRINCIPLE OF DEVELOPMENT

10.1 The national ambitions to reduce carbon dioxide emissions in the UK is set out in a number of documents, including the Climate Change Act 2008, the Energy White Paper in 2020, the Net Zero Strategy in 2021 and in last year's British Energy Security Strategy.

10.2 The principle of solar development is supported in the NPPF which states that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. The NPPF talks generally about renewables within the context of planning for climate change. It favours sustainable energy systems as long as any impacts are (or can be) made acceptable, and states that local planning authorities should approach these as part of a positive strategy for tackling climate change.

10.3 Paragraphs 152 and 158 of the NPPF are of particular relevance. Paragraph 152 states that the planning system should support the transition to a low carbon future. Paragraph 158 states that when determining planning applications for renewable and low carbon

development, local planning authorities should: a) not require Applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions; and b) approve the application if its impacts are (or can be made) acceptable.

- 10.4 In terms of local policy, Policy LPP1 of the Adopted Local Plan seeks to restrict development outside development boundaries exclusively to uses identified as being appropriate to the countryside. The objective being to protect and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
- 10.5 Policy LPP73 of the Adopted Local Plan is encouraging of renewable energy schemes where the benefits in terms of low carbon energy generating potential, outweighs harm to or loss of i) Natural landscape or other natural assets ii) Landscape character iii) Nature conservation iv) Best and Most Versatile Agricultural Land v) Heritage Assets, including the setting of Heritage assets vi) Public Rights of Way vii) Air traffic safety viii) Ministry of defence operations and x) watercourse engineering and hydrological impact.
- 10.6 Policy LPP73 goes on to say that renewable energy schemes will also need to demonstrate that they will not result in unacceptable impacts on residential amenity including visual, noise, shadow flicker, reflection, odour, fumes, and traffic generation. The development must also be capable of efficient connection to existing national energy infrastructure, in considering planning applications, the LPA will take into account the energy potential of the scheme. The Policy does not rule out renewable energy schemes in the District in countryside locations but bears consideration of their impacts upon amenity, landscape, BMV, nature conservation and historic features. These planning considerations are compatible with government legislation, and the NPPF and NPPG (National Planning Practice Guidance).
- 10.7 Overall, given the approach in the NPPF and local planning policies, and as wider Government legislation is supportive of solar energy developments (provided that the environmental impacts can be appropriately managed), the principle of development is supported and acceptable in this case.

## 11. SITE ASSESSMENT

### 11.1 Design, Appearance and Impact upon the Character and Appearance of the Area, including Landscape Impacts

- 11.1.1 As set out above, the panels would occupy an area of 275m<sup>2</sup> and would consist of four rows of panels (each measuring 12 x 3 metres) mounted on a metal frame. The maximum height of the structures would be 2.1 metres. It is of a relatively modest scale and is understood to be the minimum size to provide the required electricity (in conjunction with the existing solar array) to pump water through the irrigation system.

- 11.1.2 The siting of the array has been selected to minimise visual impacts. It would be sited to the west of the existing reservoir, and close to the existing array and pumping station. The benefit of this location is the presence of existing landscaping, which would assist in screening longer views of the development, particularly from the east and south.
- 11.1.3 In terms of landscape considerations, a core principle of the NPPF is to recognise the intrinsic and beauty of the countryside. Paragraph 174 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 11.1.4 Policy LPP67 of the Adopted Local Plan states that the LPA will take into account the different roles and character of the various landscapes in the District and recognise the intrinsic character and beauty of the countryside, in order to ensure that any development permitted is suitable for the local context.
- 11.1.5 Given the scale of development, it is not considered that the application is required to be supported by a Landscape Visual Impact Assessment. Due to the modest floor area of the development and the limited height of the development, Officers are content that an appropriate assessment can be made.
- 11.1.6 The site is on the edge of an actively farmed arable field adjacent to a reservoir. The installation area is a compacted grass field edge with some self-colonising bramble and vegetation. The removal of this vegetation raises no objection, and it would not be harmful to any distinctive landscape features.
- 11.1.7 In terms of any wider landscape impacts, it is considered that due to the scale of the development, including its limited height, and together with its siting, there would be no harmful impact to the character and appearance of the local landscape or its wider amenity. There would be public views of the development from its wider and immediate setting, obtained from the adjacent PROW, however, the scale of development limits impacts. It is not considered that any additional landscaping would be required to screen the development or otherwise.

## 11.2 Ecology

- 11.2.1 The application has been submitted with an Ecological Assessment Letter (T4 Ecology Ltd, March 2023), relating to the likely impacts of development on designated sites, protected and Priority Species & Habitats. Sufficient ecological information is available for determination, which provides certainty for the LPA of the likely impacts on designated sites, Protected and Priority Species & Habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

11.2.2 It is noted that the Construction Management Plan (CMP) which details the mitigation measures as specified in the Ecological Assessment Letter (T4 Ecology Ltd, March 2023). However, it is noted that nesting bird surveys are usually only valid for approximately a period of 48 hours, given that nesting birds can rapidly colonise suitable trees and shrubs over a short period of time. Therefore, it is indicated that if the vegetation removal is to take place in the bird nesting season, a nesting bird survey must be completed immediately before any vegetation is removed. If active nests are identified, it is recommended that a minimum buffer of five metres (depending on the bird species), is implemented, and the active bird nest should then be monitored until it can be fully confirmed that all young have fledged. As a result, it is recommended that the CMP should be revised to confirm that the timing of the nesting bird survey i.e., immediately prior to any vegetation removal and appropriate buffer zones will be implemented if the removal is to take place in the bird nesting season.

11.2.3 It is also recommended that biodiversity enhancement measures should be delivered for this application, to secure net gains for biodiversity, as outlined under Paragraph 174 of the NPPF. The proposed biodiversity enhancements are to be secured as a condition via a Biodiversity Enhancement Layout which should specify the type, number, location, height, and orientation of the proposed enhancements. Given the location of the application proposals, it is recommended that this could include native tree/shrub planting, wildflower seeding, bird nesting boxes, and /or solitary beehives/insect houses/refugia.

### 11.3 Highway Considerations

11.3.1 In terms of the construction of the facility, a Construction Management Plan (CMP) has been submitted, which sets out that deliveries and transport of materials, plant and equipment will be made to the site utilising the existing private road and farm track off Coggeshall Road (B1024). Due to the small scale of the development, the number of vehicles and their associated movements would be minimal and there would be no implications for highways considerations in terms of highway capacity or safety.

11.3.2 Additionally, the proposal would not interfere with the Public Right Of Way (PROW) No.4 (Kelvedon), that runs south of the reservoir. The CMP sets out that signs would be erected on the footpath during construction to make the public aware of any potential hazards, and due to the scale of development, the proposal would not impact on its use nor significantly impact amenity to uses on the PROW. A condition is imposed to require the submission of a revised CMP to fully set out the siting of the signage, (in addition to clarifying the ecology point as discussed above).

11.3.3 The Highway Authority have been consulted on the application and raise no objections subject to conditions relating to the PROW being maintained free and unobstructed at all times. Given that ECC are able to enforce this as the relevant authority, a condition is not considered to be necessary.

#### 11.4 Impact upon Neighbouring Residential Amenity

11.4.1 There are no residential properties within visible distance of the site, and thus it is considered that the development would not result in an impact on residential amenity.

#### 11.5 Flooding and Drainage Strategy

11.5.1 The site lies within Flood Zone 1 (a low probability of flood risk). Given this and the nature of the application, flood risk and drainage matters would not be a constraint to development.

### 12. CONCLUSION

12.1 The NPPF and local planning policies, as well as wider Government legislation is supportive of solar energy developments in principle, and thus the principle of development is supported and acceptable in this case.

12.2 The siting of the development, and the size and scale of the panels and mounting, is considered limited, and would be appropriate in terms of the context of the site. There would be no unacceptable adverse impacts upon the landscape character or similar.

12.3 Ecology matters are acceptable, and the development would secure biodiversity net gain.

12.4 Highway matters are considered acceptable - there would be no implications for highway capacity or safety and the proposal would not interfere with the PROW.

12.5 The development would create no adverse impact to neighbouring residential amenity, nor any harmful impacts in regard to flood risk and drainage.

12.6 Taking into account the above, it is considered that the proposal complies with the Development Plan when taken as a whole. Officers consider that there are no material considerations, that indicate that a decision should be made other than in accordance with the Development Plan.

### 13. RECOMMENDATION

13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

#### Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	Location	N/A
Site Plan	Site Plan	N/A
Section	Section	N/A

#### Condition(s) & Reason(s)

##### Condition 1

The development hereby permitted shall commence not later than three years from the date of this decision.

Reason: This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended).

##### Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plan listed above.

Reason: For the avoidance of doubt and in the interests of proper planning.

##### Condition 3

Prior to the commencement of the development hereby approved, including the removal of any vegetation clearance, a revised Construction Management Plan (CMP), shall be submitted to and approved in writing by the Local Planning Authority. The revised CMP shall confirm the timing of the nesting bird survey, which shall be immediately prior to any vegetation removal, and set out appropriate buffer zones to be implemented if the removal is to take place in the bird nesting season. The revised CMP shall also set out full details of the siting of the proposed pedestrian safety signage to be erected on the Public Right of Way.

Reason: To conserve and enhance Protected and Priority species.

##### Condition 4

All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment Letter (T4 Ecology Ltd, March 2023) and the Construction Management Plan (as approved via Condition 4). This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance Protected and Priority species and allow the LPA



to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 5

Prior to the commencement of the development hereby approved, including the removal of any vegetation clearance, a pre-construction badger sett survey must be undertaken. The survey must be submitted to the Local Planning Authority for approval, alongside a Method Statement to safeguard Badgers and other mammals during construction should a sett be identified. The development must be carried out in accordance with the approved method statement, prior to any development taking place.

Reason: To conserve Protected species and allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 as amended.

#### Condition 6

A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures, shall be submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be implemented in accordance with the approved details, prior to the first use of the development, and all features shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

#### Informative(s)

##### Informative 1

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath No.4 (Kelvedon) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with ECC (as the relevant Authority for the PROW). In the interests of highway user safety this may involve the Applicant temporarily closing the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the Applicant and any damage caused to the route shall be rectified by the Applicant within the timescale of the closure.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The Applicant should be advised to contact the Development Management Team by email at

[development.management@essexhighways.org](mailto:development.management@essexhighways.org)

#### Informative 2

In regard to Condition 4, you are advised that the revised CMP shall set out that if the vegetation removal is to take place in the bird nesting season, a nesting bird survey must be completed immediately before any vegetation is removed. If active nests are identified, it is recommended that a minimum buffer of five metres (depending on the bird species), is implemented, and the active bird nest should then be monitored until it can be fully confirmed that all young have fledged.

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP71	Climate Change
LPP73	Renewable Energy Schemes

#### Kelvedon Neighbourhood Plan (2017-2033)

DE1	Design of New Development
DE2	High Quality Building and Design
DE3	Well Designed Energy Efficient Buildings and Places
MA3	Transport and Access
NE3	Protection of Green Infrastructure and Biodiversity

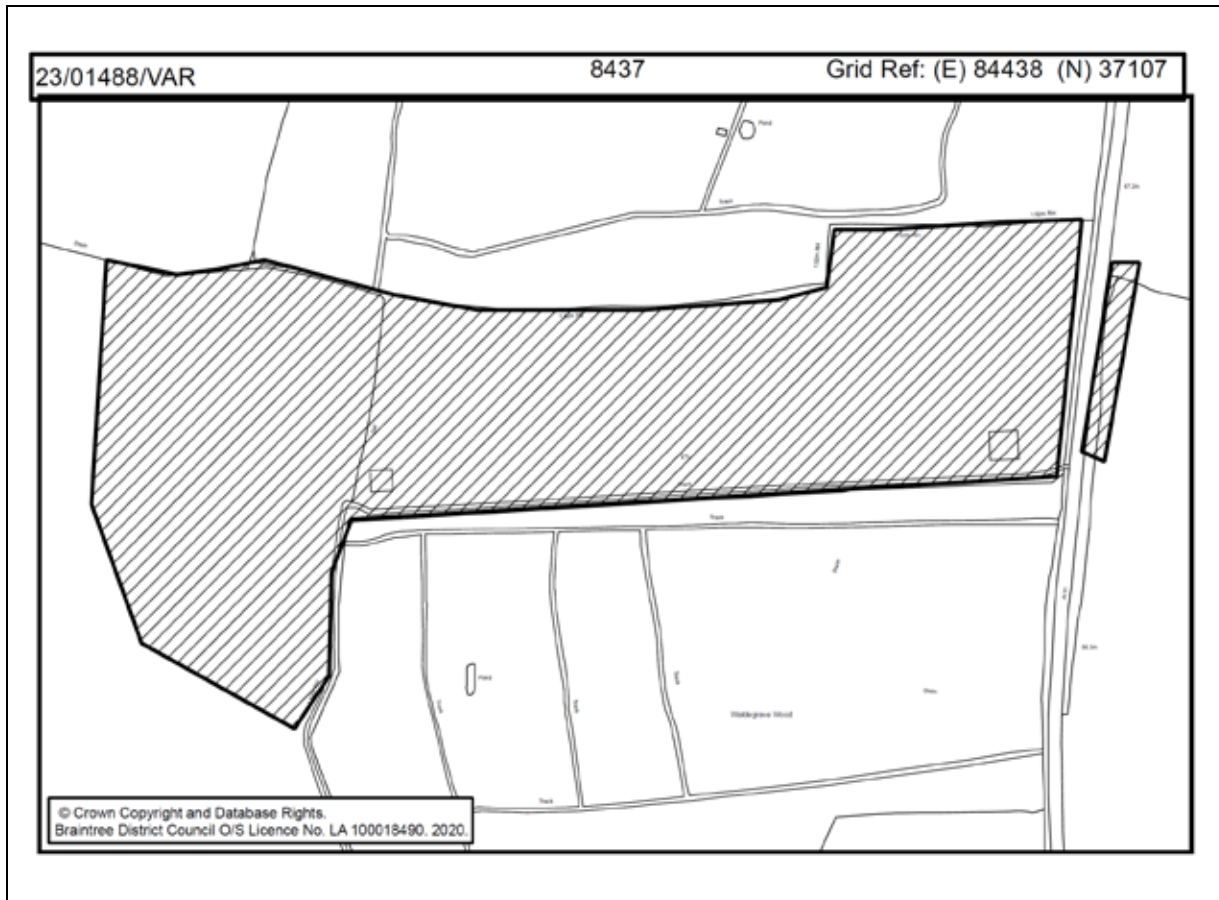
APPENDIX 3:

SITE HISTORY

None relevant to this application.

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 5th September 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/01488/VAR
<b>Description:</b>	Variation of Condition 2 (Approved Plans) & Condition 3 (Surface Water Drainage) of approved application 22/01147/FUL granted 25.10.2022. Condition 2: Would allow a reduction of substation footprint, improved cable alignment, rationalisation of the number and location of buildings, revised position and alignment of the supergrid transformer gantry moving it further from the A131. Condition 3 to be reworded to amend the SUD's trigger point. (See Paragraph 6.1 for full description).
<b>Location:</b>	Land Adjacent Butlers Wood And Waldergrave Wood West Of A131 Sudbury Road Twinstead
<b>Applicant:</b>	NGET, National Grid House, Warwick Technology Park, Gallows Hill, Warwick, CV346DA
<b>Agent:</b>	Stephenson Halliday Ltd, Mr Nick Edwards, 32 Lowther Street, Kendal, LA97AN
<b>Date Valid:</b>	6th June 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Sam Trafford For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2520, or by e-mail: <a href="mailto:sam.trafford@braintree.gov.uk">sam.trafford@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	The application was subject to the statutory application fee paid by the applicant for the determination of the application.
<b>Legal Implications:</b>	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race,</p>

	<p>religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/01488/VAR.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013-2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>



## 1. EXECUTIVE SUMMARY

- 1.1 The application site measures approximately 7ha and is situated to the west of the A131 between the ancient woodlands of Butlers Wood and Waldegrave Wood. The site is currently arable land bounded by hedgerows with an existing 400kV overhead line and two steel lattice towers passing through the site boundary. Full planning permission was granted on 25th October 2022 following referral to Planning Committee on 18th October 2022, for the creation of a substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain, and landscape mounding) and drainage. The scheme forms part of the Bramford to Twinstead Nationally Significant Infrastructure Project (NSIP).
- 1.2 The application seeks permission to vary: Condition 2 of the original permission, to allow for the reduction in the scale of the substation compound, together with the removal of various buildings within the compound, and relocating a diesel generator from a location to the west of the site to the east of the site; and Condition 3, to change the trigger point to which the condition will need to be discharged.
- 1.3 The principle of the development has been established through the grant of planning permission for Application Reference 22/01147/FUL. The acceptability of the proposal has therefore been established and the variations proposed would not affect this.
- 1.4 Matters pertaining to landscaping, ecology, and highways would not be materially impacted upon due to the proposed variation of conditions.
- 1.5 The proposed variation would result in the compound being smaller in terms of its footprint when compared with the previously approved application. The scale of mitigation proposed would remain and the development would be no more visually intrusive than previously approved.
- 1.6 Part of the proposed variation would see a backup diesel generator moved from a location toward the western boundary of the site toward the eastern boundary of the site. This would result in it being somewhat closer to the nearest residential dwelling, at Ben Gramor Lodge. A noise impact assessment has been received and reviewed by Environmental Health who have raised no objections to the proposal. The application is considered acceptable in respect of impacts to neighbouring residential amenities.
- 1.7 The application also seeks to vary the wording of Condition 3, which relates to means of sustainable urban drainage (SUDS) on the site. The Lead Local Flood Authority raises no objection to this proposed variation of condition.

- 1.8 Officers are satisfied that the application complies with the relevant policies, and there would be no adverse harms caused through the proposed variation of conditions. It is recommended that the application is granted.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site measures approximately 7ha and is situated to the west of the A131 between the ancient woodlands of Butlers Wood and Waldegrave Wood. These woodlands are also identified as Local Wildlife Sites.
- 5.2 The site straddles the Parish boundaries of Bulmer and Twinstead. Wickham St Paul is situated to the south west of the site, Twinstead is to the south east and Bulmer Tye is situated to the north. The site is currently arable land bounded by hedgerows with an existing 400kV overhead line and two steel lattice towers passing through the site boundary. The site is accessed to the east from the A131. There are Public Rights of Way in the wider periphery surrounding the site (PROW 13/16/18/23).
- 5.3 Full planning permission was granted on 25th October 2022 following referral to Planning Committee on 18th October 2022, for the creation of a substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain, and landscape mounding) and drainage. The scheme forms part of the Bramford to Twinstead Nationally Significant Infrastructure Project (NSIP).

6. PROPOSAL

- 6.1 The full description of the proposal is as follows:

Variation of Condition 2 (Approved Plans) & Condition 3 (Surface Water Drainage) of approved application 22/01147/FUL granted 25.10.2022 for: A new 400/132 kilovolt (kV) Grid Supply Point (GSP) substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary

fencing, an area for Biodiversity Net Gain, and landscape mounding) and drainage.

Condition 2: Would allow a reduction of substation footprint , improved cable alignment, rationalisation of the number and location of buildings, revised position and alignment of the supergrid transformer gantry moving it further from the A131.

Condition 3 to be reworded to amend the SUD's trigger point.

- 6.2 The application seeks to vary Conditions 2 and 3, to facilitate a minor material amendment, and to change the trigger point to which Condition 3 would need to be discharged.
- 6.3 The proposed minor material amendment would include the reduction in the scale of the substation compound, together with the removal of various buildings within the compound, and relocating a diesel generator from a location to the west of the site to the east of the site.
- 6.4 The variation to Condition 3 would change the wording from:

*Prior to commencement of development a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:*

- *Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in 2 accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.*
- *Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.*
- *Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.*
- *Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.*
- *Final modelling and calculations for all areas of the drainage system.*
- *The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.*
- *Detailed engineering drawings of each component of the drainage scheme.*

- *A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.*
- *An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.*

6.5 To:

*Prior to the installation of any components of the drainage system or within 6 months from the commencement of development (whichever is sooner), a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the Local Planning Authority.*

- *Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.*
- *Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.*
- *Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.*
- *Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.*
- *Final modelling and calculations for all areas of the drainage system.*
- *The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.*
- *Detailed engineering drawings of each component of the drainage scheme.*
- *A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.*
- *A written report summarising the final strategy and highlighting any minor changes to the approved strategy.*

*The scheme shall also include a programme for the installation of the drainage scheme. Once approved the approved drainage scheme shall be implemented in its entirety.*

6.6 The intention behind the proposed variation would be to allow works to commence on the site prior to the condition being discharged.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

7.1.1 Anglian Water have commented on the application to note that the proposed submission does not include additional drainage details.

### 7.2 Forestry Commission

7.2.1 The Forestry Commission neither objects to nor supports the application. However, they welcome the proposed reduction in the footprint of the proposed substation thereby allowing a larger area of shrub planting across the site.

### 7.3 BDC Environmental Health

7.3.1 The Council's Environmental Health Officer raises no objections to the application. They have considered the noise assessment report submitted and conclude that the proposed variation would result in no additional unacceptable impacts to neighbouring residential amenities.

### 7.4 ECC SUDS (LLFA)

7.4.1 ECC SUDS raises no objections to the proposed variation to the wording of Condition 3 to change it from a 'pre-commencement' condition to a 'prior to occupation' condition. (No objections are raised also to the proposed trigger point suggested: 'Prior to the installation of any components of the drainage system or within 6 months from the commencement of development (whichever is sooner)'). They also raise no objection to the proposed minor material amendment to the scheme.

## 8. PARISH / TOWN COUNCIL

### 8.1 Great Henny, Middleton, Little Henny & Twinstead Parish Council

8.1.1 No response has been received from Great Henny, Middleton, Little Henny & Twinstead Parish Council at the time of publication of the report.

### 8.2 Bulmer Parish Council

8.2.1 Bulmer Parish Council has responded to raise an objection to the proposed variation. They do so on the following grounds:

- Speculative future development regarding solar panels and battery storage being installed at the site (it is noted that this information is not related to this application).

## 9. REPRESENTATIONS

9.1 Neighbours were consulted by way of letter, and a site notice was displayed outside of the site for a period of 21 days. In response, 4no. representations were received at the time of writing the report. These representations raise objection to the application, and can be summarised as follows:

- The landscaping proposed would not screen the development;
- Noise impacts caused to the dwelling at Ben Gramor Lodge, due to the proposed moving of a backup diesel generator within the substation compound.

## 10. PRINCIPLE OF DEVELOPMENT

10.1 The principle of the development has been established through the grant of planning permission for Application Reference 22/01147/FUL for the development of a substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain, and landscape mounding) and drainage.

10.2 The proposed variations, including the reduction in the size of the overall substation compound and removing/moving elements of paraphernalia within the compound, would not affect the principle of development. The proposed change to the wording of Condition 3, in particular to change the trigger point to which the Condition will need to be discharged, also does not affect the principle of the development.

## 11. SITE ASSESSMENT

### 11.1 Design, Appearance and Impact upon the Character and Appearance of the Area

11.1.1 The proposed variation would result in the substation compound as previously approved being reduced in terms of its size. Planning permission has been given for the erection of a substation compound of 280 metres in length. The proposed variation would see the compound reduced in size, to 225 metres in length. This amounts to a reduction of approximately 1100sq.m of floorspace. This proposed reduction follows the refinement of the facilities required within the compound, and it is noted that various buildings which were previously proposed, such as a DNO amenities room and 2no. portable relay rooms no longer appear on the proposed plans. The spacing between each of the super-grid transformers also appears to

have been reduced. The height of the proposed compound would not be altered when compared with the previous approval.

- 11.1.2 Means of visual mitigation were approved as part of the previous application, including bunds, which are to be located to the east (1.5 metres) and west (2.5 metres tall) of the site, and landscaping, including a mix of native trees, shrubs and wildflower grassland. The proposed variation application would not affect these proposed means of mitigation. During the assessment of the application, an additional plan was received. This included a cross sectional drawing to show the development as it would be viewed from the A131, with the planting and bund in place. This drawing shows that from public viewpoints, the development would result in the same level of visual impact. It was concluded that the proposed development was acceptable when planning permission was granted in 2022. Officers considered that no material considerations indicate that an alternative conclusion should be reached in the assessment of this application.
- 11.1.3 As such, Officers conclude that the application is acceptable in respect of design, layout, and landscape considerations. It is considered that the application complies with the Policies set out in the Adopted Local Plan and NPPF.

## 11.2 Landscaping

- 11.2.1 The changes sought within this Section 73 application do not have implications for the landscaping as previously approved. Detailed landscape plans and documentation were submitted with the extant permission, which sets out the full landscape proposals for the site. These details were considered to be acceptable and approved, and secured by condition. The same condition as that attached to the previous planning permission would be reimposed.

## 11.3 Ecology

- 11.3.1 The changes sought within this Section 73 application do not have any implications in terms of ecology, or would affect the biodiversity net gain which was secured when planning permission was approved previously.

## 11.4 Highway Considerations

- 11.4.1 The proposed amendments to the scheme sought through this Section 73 application would not result in material alterations to either the means of access to the highway, the level of impact upon the highway network, or provision of parking within the site. The proposal is considered to be acceptable in this regard.



## 11.5 Impact upon Neighbouring Residential Amenity

- 11.5.1 Part of the proposed variation to the plans includes the movement of a diesel backup generator from a position toward the west of the site, to a revised position which would be closer to the east of the site. The practical use of the generator would not change; it would remain an infrequently used element of the substation, tested monthly and only used during outages. However, its revised position is such that, due to it becoming closer to dwellings fronting the A131, there is the potential for the noise levels to be materially altered when compared with the extant planning permission. Representations received from residential dwellings object, in part, on grounds related to increased noise level impacts.
- 11.5.2 In order to ascertain whether there would be a change in noise levels, and if so the extent of this change, a revised Noise Impact Assessment was sought, and this has been provided by the Applicant. The assessment finds that there is a heightened impact when compared with the original application of +1 dB(A) in the worst case. Some noise sensitive receptor locations will be worse off or better off when compared with the original assessment, but the overall “worst” noise level afforded to any noise-sensitive receptor is +1 dB(A) which is an imperceptible difference to the human ear.
- 11.5.3 The Technical Note then also revises the BS4142 assessment accordingly and, as originally, applies a suitable likely worst case acoustic correction “penalty” of +6dB(A). With the penalty included a likely +5 dB(A) daytime and +18 dB(A) nighttime exceedance above background noise levels during operation of the backup generator is calculated, and commentary in the report states:
- “Potential indication of adverse impact during daytime significant adverse impact during night-time, depending on context. However, in context, the specific sound level is still very low at NSR such that suitable conditions for sleeping can be achieved, even with open windows for ventilation. Additionally, the plant would only operate rarely during testing or outages. In context, the impact of noise from the proposed emergency backup generator is low. Outcome: Low impact”.*
- 11.5.4 The Council’s Environmental Health Officer has assessed the Noise Impact Assessment and raises no objections to the application. They note that in respect of noise, the variation from the extant permission to this scheme is +1dB(A). They note that the generator would not be anticipated to operate with any degree of regularity as it is indeed a “back-up”. The daytime impact during its use is likely to be apparent, but of limited impact. At night-time, there will typically be a 10-15 dB(A) reduction in noise levels afforded by a window opening (when open, but greater when closed), meaning a more likely 3-8dB(A) above background level if in operation. 37 dB(A) is the identified worst case level at a residential dwelling; removing 10-15 dB(A) results in 22-27 dB(A), and the recommended levels at night-time within a

bedroom is 30dB(A) LAeq. The Environmental Health Officer notes that this would be achieved within a dwelling with an open window.

- 11.5.5 Taking into account the Noise Impact Assessment, the objections received from dwellings, and the comments received from the Environmental Health Officer, Officers consider that the application is acceptable in respect to impacts to neighbouring residential amenities.

## 11.6 Flooding and Drainage Strategy

- 11.6.1 The proposed variation would materially affect the previously approved drainage considerations. This is because the amount of hardstanding would effectively be reduced, by virtue of the size of the substation compound being decreased by approximately 1100sq.m.
- 11.6.2 ECC SUDS have been consulted on this element of the proposed variation and raise no objections. They note that a condition attached to the extant permission (Condition 3) requires a detailed surface water drainage scheme for the site, and the scheme will reflect the reduction in the level of hardstanding. When an application is made to discharge this condition, the acceptability of the scheme will be assessed.
- 11.6.3 The proposed variation also seeks to change the wording of Condition 3. The proposal includes changing the trigger point to which the condition will need to be discharged. The condition as it is presently worded requires discharging 'prior to the commencement of development'. The proposed variation would change the wording of the condition to 'prior to the installation of any components of the drainage system'. It would also require that the drainage scheme is submitted and approved within 6 months of the commencement of development, or prior to the installation of any electrical components, whichever is the sooner.
- 11.6.4 It is understood that the reason the Applicant is seeking to change the wording of the condition is because the finalised design of the drainage scheme can only be completed following further design processes, including understanding the ground conditions and infiltration rates, understanding the detailed design of cut and fill to create a level development platform, and an awareness of underground services. It is understood that the completion of these is likely to take a number of months. There are some parts of the scheme that can be undertaken on site in advance of any part of the drainage system being installed, including installing the site access and the regrading of the site to create a development platform. These operations would represent the commencement of development and as such are presently prevented from taking place.
- 11.6.5 ECC SUDS has raised no objections to the proposed re-wording of Condition 3. There would not be any material harm caused through the proposed changing of the trigger point of the condition. The condition would

still require a detailed drainage scheme to be approved by the Local Planning Authority, following consultation with ECC SUDS.

- 11.6.6 It is noted that Anglian Water has commented on the application and note that there is presently no drainage documentation submitted with the application. As above, this is because the drainage documentation will require approval under Condition 3.
- 11.6.7. Officers are satisfied that the application is acceptable in respect to flooding and drainage strategy considerations.

#### 11.7 Other Issues

- 11.7.1 Since planning permission was granted for the scheme in 2022, a number of conditions attached to the decision notice have been formally discharged. It is recommended that conditions attached to this decision notice refer to the details as approved, so as to prevent the need for them to be discharged again.
- 11.7.2 It is noted that representations received from Bulmer Parish Council object in part due to speculative development outside of the red line. This application relates to development within the application site only. Any future development which may or may not take place outside of the application site would be assessed based on its own merits. It would not be lawful to assess the acceptability of this application based on speculative future development outside of the application site for this proposal.

#### 12. CONCLUSION

- 12.1 The proposed variations sought through this application are relatively minor. The assessment of the application above demonstrates that the proposed changes are acceptable in planning terms. Consequently, it is recommended that planning permission is granted for the proposed variations to Conditions 2 and 3.

#### 13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

#### Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Proposed Elevations and Floor Plans Block Plan	N/A TWIN4-JMS-DS- XX-DR0012	N/A N/A
Other	TWIN4-JMS-DS- XX-DR0011	N/A
Other	TWIN4-JMS-DS- XX-DR0013	N/A
Other	TWIN4-JMS-DS- XX-DR0015	N/A
Other	TWIN4-JMS-DS- XX-DR0016	N/A
Proposed Site Plan	TWIN4-JMS-DS- XX-DR0017	N/A
Site Layout	TWIN4-JMS-DS- XX-DR0018	N/A
Parking Strategy	TWIN4-JMS-DS- XX-DR0019	N/A
Proposed Floor Plan	TWIN4-JMS-DS- XX-DR0020	N/A
Noise Details	NOISE REASSESSMENT TECHNICAL NOTE	N/A
Section	TWIN4-JMS-DS- XX-DR-X-0021 REV. A	N/A
Noise Details	Appendix 10	N/A
Other	Construction Environment Management Plan	N/A

#### Condition(s) & Reason(s)

##### Condition 1

The development hereby permitted shall begin not later than 25.10.2025.

Reason: This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

##### Condition 2

The development hereby permitted shall be carried out in accordance with the approved plans listed above.

Reason: For the avoidance of doubt and in the interests of proper planning.

### Condition 3

Prior to the installation of any components of the drainage system or within 6 months from the commencement of development (whichever is sooner), a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the Local Planning Authority.

The scheme should include, but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall also include a programme for the installation of the drainage scheme. Once approved the approved drainage scheme shall be implemented in its entirety.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

#### Condition 4

The scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution shall be installed in accordance with the details approved with application 23/01561/DAC on the 12.07.2023.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

#### Condition 5

Prior to the first use of the development as approved, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and approved, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### Condition 6

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

#### Condition 7

All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Environmental Appraisal Appendix 1 Construction Environment Management Plan (CEMP) V3 and as set out in Annex A (Code of Construction Practice - CoCP), as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 8

The development shall be carried out in accordance with the Great Crested Newt Licence, as approved by application 23/01814/DAC on the 03.08.2023.

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.

#### Condition 9

Prior to the installation of any external lighting at the site, a lighting design scheme to protect biodiversity, local amenity, and intrinsically dark landscapes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Temporary lighting installed during construction shall be provided by mobile solar lighting towers or similar. The lux level shall be 20 lux peak in the horizontal plane within the area of construction. The construction compound shall not be lit at night outside of core working hours except for welfare and site security cabins that will include low level lighting.

Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 10

Prior to first use of the development hereby approved a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to beneficial use of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed to deliver Biodiversity Net Gain.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a 15 year work schedule (including an annual work plan capable of

being rolled forward over a five-year period to deliver condition of created and enhanced habitats).

- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 11

Prior to any substation electricity equipment being erected above ground details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate. All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons following either substantial completion of the development or the development first being brought into use, whichever is the sooner unless otherwise previously agreed in writing by the local planning authority. All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier. Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason: To enhance the appearance of the development.

#### Condition 12

Prior to the implementation of the landscaping scheme pursuant to Condition 10 of this permission, an irrigation and maintenance regime shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be implemented in accordance with the approved irrigation and maintenance regime.

Reason: To ensure that the landscaping scheme is able to fully establish in the



interests of the appearance of the development and amenity of future and that of adjoining occupiers.

Condition 13

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

Reason: To prevent the increased risk of flooding.

Condition 14

The development shall be carried out in accordance with the management and best guidance practice measures as detailed in the approved Noise Assessment (Appendix 10).

Reason: In the interests of neighbouring amenity.

Condition 15

The development shall be carried out in accordance with the Written Scheme of Investigation (WSI) as approved within application 23/01345/DAC on the 05.07.2023.

Reason: The site may be of archaeological interest.

Condition 16

A final archaeological report or (if appropriate) a Post Excavation Assessment report and an Updated Project Design shall be submitted to and approved in writing by the Local Planning Authority. This shall be submitted within 6 months of the date of completion of the archaeological fieldwork. This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: The site maybe of archaeological interest.

Condition 17

The development shall be carried out in accordance with the Construction Management Plan as approved within application 23/01346/DAC on the 12.07.2023.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Condition 18

No occupation of the development shall take place until the proposal site access arrangements as shown in principle on planning application drawing number PDD21847-CIV-022 Rev. P02 have been provided or completed.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

#### Condition 19

Should contamination be found that was not previously identified, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with Paragraph 8.2.2 of the Applicant's Environmental Appraisal (CEMP V3) and a separate remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures shall be implemented and completed prior to the operation of the development.

Reason: In interests of neighbouring amenity.

#### Condition 20

There shall be no deliveries or construction vehicle movements to, from or within the premises outside the following times:

- Monday to Friday 0700 hours - 1900 hours;
- Saturday, Sundays, Public and Bank Holidays - 0800 hours - 1700 hours.

Reason: In interests of neighbouring amenity.

#### Condition 21

The applicant shall adhere to the actions and commitments contained within the Construction Environment Management Plan (CEMP, July 2022, V3) at all times as appropriate before, during, and after construction of the development.

Reason: In interest of neighbouring amenity.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP43	Parking Provision
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP77	External Lighting

APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
90/01266/PFHN	Display Of Nameboard	Refused	12.09.90
22/01015/OHL	Overhead line works associated with proposed grid supply point substation at Butlers Wood	Granted	22.07.22
22/01147/FUL	A new 400/132 kilovolt (kV) Grid Supply Point (GSP) substation including two supergrid transformers, associated buildings, equipment and switchgear, a single circuit cable sealing end compound, a new permanent vehicular access to the public highway, associated landscaping (including boundary fencing, an area for Biodiversity Net Gain, and landscape mounding) and drainage	Granted	25.10.22
23/01345/DAC	Application for approval of details as reserved by Condition 15 (Archaeology) of approved application 22/01147/FUL	Granted	05.07.23
23/01346/DAC	Application for approval of details as reserved by Condition 17 (Construction Traffic Management Plan) of approved application 22/01147/FUL	Granted	12.07.23
23/01348/DAC	Application for approval of details as reserved by Condition 6 (Archaeology) of approved application 22/01015/OHL	Granted	05.07.23
23/01521/DAC	Application for approval of details as reserved by condition 9 (Removal of vegetation) of approved application 22/01015/OHL	Pending Consideration	

23/01561/DAC	Application for approval of details as reserved by condition 4 (SuDS) of approved application 22/01147/FUL	Granted	12.07.23
23/01562/DAC	Application for approval of details as reserved by condition 5 (Drainage and Dewatering Strategy) of approved application 22/01015/OHL	Granted	02.08.23
23/01814/DAC	Application for approval of details as reserved by condition 8 (Great crested newt licence) approved application 22/01147/FUL	Granted	03.08.23
23/01815/DAC	Application for approval of details as reserved by condition 8 (Great crested newt licence) approved application 22/01015/OHL	Pending Consideration	