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## Appeal Decision

Hearing held on 27 February 2025

Site visits made on 26 February and 27 February 2025

**by L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19 March 2025**

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**Appeal Ref: APP/R1038/W/24/3353898**

**Land to the west of Dyche Lane and to the south of New Leaf Plant Centre, Coal Aston S18 3AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ylem Energy Ltd against the decision of North East Derbyshire District Council.
  - The application Ref is 24/00035/FL.
  - The development proposed is the construction and operation of a battery energy storage system (BESS) and ancillary infrastructure, including creation of new access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have taken the site address from the application form, but amended 'Batemoor' to 'Coal Aston' as this reflects the decision notice, appeal form, and the address of the adjacent New Leaf Plant Centre. The application form description does not reference the creation of a new access, but as this addition was agreed between the parties and provides more clarity, I have included it within the header description above.
3. A revised version of the Site Location Plan<sup>1</sup> was submitted for the appeal. Although identified as 'Rev 5', it is otherwise identical to the 'Rev 4' version before the Council for its decision, which had not been given an updated revision reference following changes relating to the visibility splays.
4. At the start of the hearing the Compound Elevations Plan<sup>2</sup> was identified as inaccurate regarding the position of the 4.0m high acoustic fence. The fence would not be sited on the existing ground level, but would be on the ground level of the new cut and fill compound area. I have assessed the proposal on this basis, albeit it was agreed to remove this plan from the list of approved drawings, were I to allow the appeal. The hearing discussion also identified calculation errors in the Biodiversity Gain Plan and its conclusions. I subsequently accepted a revised version 3.2 and associated Metric which clarified a lower Biodiversity Net Gain (BNG) figure.
5. The Planning Practice Guidance was updated on the day of the hearing, on which the parties subsequently had the chance to make comment.

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<sup>1</sup> DYCH-BESS-001.4 Rev 4 dated 20/11/23

<sup>2</sup> DYCH-BESS-001.4 Rev 5 dated 14/10/24

## Main Issues

6. The appeal site is located within the Green Belt, as identified by the North East Derbyshire Local Plan 2014-2034 (NEDLP) and its Policies Map. The parties have agreed that the proposal would represent inappropriate development in the Green Belt, under the terms of the National Planning Policy Framework ('the Framework') (2024) paragraphs 154 and 155, and the NEDLP Policy SS10. I concur with this position. The Framework paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The main issues are therefore:
  - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
  - the effect of the proposal on the character and appearance of the area;
  - the effect of the proposal on agricultural land; and
  - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

## Reasons

### *Green Belt Openness and Purposes*

8. The site comprises part of a steeply sloping larger agricultural field to the west of Dyche Lane. The field is bound by a combination of drystone walling and a hedgerow with trees along Dyche Lane, and hedgerows with trees to the other sides. It lies in between Dronfield to the south, and Batemoor to the north, which forms the southernmost urban extent of Sheffield in this area.
9. The proposal is to construct and operate a 45MW battery energy storage system (BESS) site, for a temporary period of 30 years. In terms of individual and generational experience, 30 years is around the limits of what could reasonably be described as temporary. However, the concept of temporary infers different things in different contexts. The Planning Practice Guidance (PPG) confirms that factors that can be taken into account when considering the potential impact of development on the openness of the Green Belt, include the duration of a development, and its remediability<sup>3</sup>. Conditions would be imposed to require reinstatement of the site to its original condition after decommissioning.
10. This matter has also been considered by numerous other Inspectors in considering a range of renewable energy projects, with a broad consensus that the temporary nature of such timescales does act to mitigate any harm caused to varying extents. I am therefore satisfied that the proposal is temporary, albeit with longstanding impacts, and have made my determination accordingly.
11. The proposal would comprise a cut and fill compound surrounded by a 4.0m high acoustic fence. It would include 37 battery containers of 2.9m height, a 4.4m high switch room, 7 transformers, a sub-station and site welfare building/switch room, site supply transformer, security columns, and 2 fire water storage tanks. The access would be a new route across the field, starting at the current field access

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<sup>3</sup> Paragraph: 013 Reference ID: 64-013-20250225

off Dyche Lane. The works would require a cut into the slope of almost 4.0m at its deepest, and the current lowest part of the site in the northwestern area would be raised up by a similar extent. It would be surrounded by a new mixed native landscaping belt.

12. The Framework paragraph 142 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Policy ENV1 of the Dronfield Neighbourhood Plan (DNP) reiterates the Framework guidance, in that there will be a strong presumption against development that would conflict with the purposes of the Green Belt, or adversely affect its open character.
13. Openness has spatial and visual aspects, and is a matter of planning judgement. The openness of the Green Belt is evident around the appeal site and the countryside on both sides of Dyche Lane. The BESS would insert relatively significant additional volumetric massing in spatial terms into this openness, notwithstanding the proposed landscaping. The acoustic fence would also contribute to this massing as an enclosing feature.
14. Visually, I find there would be no impact from the public right of way (PROW) on Cross Lane, and PROW viewpoints more distant to the site already have limited intervisibility due to existing vegetation and topography screening. The drop in levels from Dyche Lane means that at present views from it are across and above the site into the middle distance, rather than down into the site. Travelling south along Dyche Lane these views are generally of rising fields, and travelling north views encompass the stacked urban form of the New Leaf Plant Centre and the dwellings beyond.
15. Notwithstanding this, the compound would be visible from along Dyche Lane, including in filtered views travelling south when the vegetation is subject to leaf drop, as for my site visit. Although the more open and wide views would not be blocked, it would still be apparent that there was an industrial insertion into the Green Belt framed within these views.
16. Its initial visual impact would be mitigated and softened as the landscaping matures over a number of years, albeit less effectively during periods of leaf drop. This screening would be assisted by the generally enclosed nature of the site and the landscape in which it sits, with a lower ground level of the compound and the structures within and around it, compared to the height of this boundary vegetation screening. However, the comparative elevation of Dyche Lane would also allow for filtered views down into and across the site, and its overall size to be apparent.
17. Furthermore, the site junction onto Dyche Lane and the access track across the field, would remain as an engineered feature without any screening, and one significantly more visually impactful than the existing field access. This would also act to draw the eyeline down to the compound and highlight its visibility, further extending the proposal's impact on the openness. In cumulation, the proposal would have a harmful effect on openness, both spatially and visually.
18. The Framework also identifies 5 essential purposes of the Green Belt at paragraph 143. The appellant considers the proposal would not conflict strongly with these. This is because it would not be permanent, would lack the bulky massing of other forms of development, and would be contained within landscaping. It is not a form

of development that would be an extension of the settlement, and so overall its nature and function would be different to that when normally considering Green Belt development against 143(a) general unrestricted sprawl of large built-up areas, and (c) safeguarding the countryside from encroachment.

19. The appellant also acknowledges that although the wider parcel of land itself makes a strong contribution to purpose (b) in the prevention of merger of Sheffield and Dronfield, the site itself is a very small proportion of this land. They consider a significant proportion of it would remain, and there would still be a sense of moving between the settlements.
20. However, although the topography allows for long range views over and through the Green Belt into the gap, as identified above this also means that the proximity of the Sheffield built form is evident when facing north. The Council and interested parties identify this as the narrowest part of the Green Belt separating Sheffield and Dronfield. It is approximately 800m in extent, but already encompasses the New Leaf Plant Centre and the garden centre to the north of Dronfield, such that the area without built form and with significant openness is much less. I thus find that the cumulation of these factors would result in significant conflict with the Framework paragraph 143 purposes (a), (b), and (c).
21. Overall, the proposal would result in significant harmful inappropriate development in the Green Belt, including considerable harm to its openness and to its purposes on a temporary but long term basis. The proposal would thus conflict with the NEDLP Policy SS10, the DNP Policy ENV1, and the Framework Section 13.

#### *Character and Appearance*

22. The site lies within the Wooded Hills and Valleys landscape character type (LCT), within the Nottinghamshire, Derbyshire and Yorkshire Coalfield national character area (NCA). This LCT wraps around the north and east edges of Dronfield, and incorporates the Moss Valley Conservation Area (CA) on the eastern side of Dyche Lane. The area has remained essentially rural and intact. This landscape is characterised by undulating topography, large fields enclosed by hedgerow, mixed farming, woodland bands along stream valleys, scattered woodland, healthy vegetation around road verges and occasional dry stone walls, all overlaid by a network of small irregular lanes and connections. Individually, the appeal site relates to these key characteristics by lying within a field enclosed by hedgerows and scattered mature hedgerow trees, with an undulating landform.
23. Similarly to the visual impact on the Green Belt, I find that from viewpoint 2 on Cross Lane the proposal would not break the skyline, or be especially perceptible in the context of the topography, vegetation screening, and the built form beyond. There would also be no substantial harm to the wider landscape character from more distant views.
24. The appellant identifies that site visits made in relation to this proposal are actively looking for the site, whereas in reality Dyche Lane pedestrians would be using it as a means to get somewhere, with primary focus on the functional aspect of walking rather than for enjoyment. Indeed, this is the reason why the GLVIA3<sup>4</sup> identifies that walkers on a road have medium sensitivity to visual change, compared to high

<sup>4</sup>Guidelines on Landscape and Visual Impact, 3<sup>rd</sup> Edition

sensitivity for those on a PROW. As such, their eye would be drawn over the site to the more expansive views beyond.

25. However, as identified above, experientially when walking in both directions the vista does pleasingly unfold, despite the urban form of the New Leaf Plant Centre and dwellings beyond. This was highlighted by interested parties, including that the route is very well used and enjoyed, and that it provides a sense of wellbeing on walking commutes and school journeys. Dyche Lane only has a footpath to that one side, pushing all pedestrians adjacent to the appeal site.
26. The proposal would draw the eye as an unusual feature within the field, especially with the access track cutting across much of the immediate view. Those regularly traveling the route would get used to it over time, but would be aware of its presence as a visual intrusion especially in the earlier years. Furthermore, the elevated height of Dyche Lane would allow looking down upon and into it, as well as across and over.
27. The Council further considers that the site comprises part of a valued landscape under the Framework Paragraph 187(a): *"planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes... (in a manner commensurate with their statutory status or identified quality in the development plan)."* The PPG also identifies that where landscapes have a particular local value, it is important for policies to identify their special characteristics and be supported by proportionate evidence<sup>5</sup>. The Framework and the PPG do not define 'valued landscape', or differentiate between designated or non-designated local landscapes in terms of value.
28. The appellant disagrees, considering that the site has no demonstrable physical attribute that makes it different from the norm<sup>6</sup>. I accept that a site can be strongly valued by people but still not be a valued landscape under paragraph 187(a).
29. However, in this instance this area of land is within a primary Area of Multiple Environmental Sensitivity (AMES), which is an area most likely to be negatively affected by change or development. The land is further valued for its specific function as forming the narrowest part of the open countryside and Green Belt gap between the settlements. Although in itself the site 'only' has the characteristics of an agricultural field, it is clearly part of a wider local landscape cherished by many residents. This identified quality is specified within the DNP, as required by paragraph 187(a). As such, the DNP evidences a strong common consensus.
30. The local Councillor representative rehearsed this at the hearing, whereby the DNP is founded on multiple studies identifying this area as the most important Green Belt extent in the whole of North East Derbyshire, with nothing more that could be done to attempt to identify its value at the local scale. I note the Landscape and Visual Appraisal (LVA)<sup>7</sup> identifies that receptors of high visual sensitivity include communities where the development results in changes in valued views enjoyed by the local community.
31. This does not indicate that the whole of this extent of the Green Belt is or is not a valued landscape, but due to the proximity of the well-used road, this specific extent encompassing the appeal site is particularly visible and experientially

<sup>5</sup>Paragraph: 036 Reference ID: 8-036-20190721

<sup>6</sup>Ouseley J in Stroud DC v SSCLG [2015] EWHC 488 (Admin)

<sup>7</sup> LVIA Ltd, November 2023

tangible, and valued on that basis as evident relief between the urban areas. Notwithstanding that the appeal site only comprises some of the key characteristics of its LCT, I therefore do find that it forms a valued landscape for the purposes of the Framework paragraph 187(a).

32. At year 1, the visual effects from Dyche Lane would be of a large magnitude and prominence, due to their proximity. The LVA identifies this to form a major/moderate effect, but for the reasons described above I find it would be of a more severe effect.
33. The proposed landscaping would clearly provide beneficial mitigation screening, and would align in principle with the requirements of the NEDLP Policy DC12(d). Trees planted at a height of 2.0-3.0m would form a relatively high visual barrier, with native species growing roughly 0.4-0.5m a year. However, I am unconvinced that the size of the compound within the topography would allow for its full screening, and trees would also be subject to leaf drop for months of the year. The access junction and road would not be screened, and again would indicate the presence of the development beyond, surrounded by regimented planting, even were it not itself visible after 15 years in a best case scenario. There would be intrinsic harm to landscape character.
34. Therefore again, although the LVA concludes that following screening mitigation the proposal would have a moderate visual impact and a minor landscape character impact, I find the impact would be more severe. The type of development would be out of character within the receiving landscape.
35. Section 16 of the Framework also requires great weight to be given to the conservation of designated heritage assets, and so I am required to consider the impact upon the Moss Valley CA, the boundary of which runs along Dyche Lane. Its significance is drawn from how it reflects that of the wider landscape character as described above, including the relics of former industries along the valley bottom, the network of lanes and connections that served them, and the surrounding farmland and, scattered historic farmsteads along the valley sides.
36. Although Dyche Lane provides a clear CA boundary and thus a level of separation between it and the appeal site field, when travelling along Dyche Lane both sides of the road are experienced together as an area of countryside, and as a gap between the settlements. As such, the appeal site forms part of its setting, as do the Dyche Lane boundary treatments. For the reasons above relating to impact on the character of the countryside, I therefore concur with the main parties that the proposal would cause less than substantial harm to the significance of the CA as a designated heritage asset, to which the Framework paragraph 212 requires that I give great weight. Paragraph 215 requires this to be weighed against the public benefits of the proposal, and so I address this matter within my planning balance.
37. Many interested parties objected on the grounds of the visual impact from the New Leaf Plant Centre. The acoustic fence and some of the structures would be visible, but the impact on private views is not a material consideration. I also note that although the café and outdoor terrace benefit from the openness of the adjacent field in terms of general setting, they are not laid out to directly overlook it or have it as a main point of focus. Intervening, there is boundary vegetation, an internal access road, and two large tanks, as well as the surrounding built environment of

the Plant Centre itself. The same principle applies to views from Whitethorn House to the north-east, being the closest residential property.

38. Overall, the proposal would cause significant harm to the character and appearance of the area. It would conflict with the NEDLP Policies SS9, SDC3, and SDC12, and the DNP Policy ENV2. Together and amongst other matters, these aim for proposals to enhance local distinctiveness and a sense of place, and protect and/or enhance the character, quality, and diversity of the District's local landscapes. The form, scale, and character of these landscapes must be respected through careful siting, scale, design, and use of materials. Proposals for new development will only be permitted where they would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities. Development proposals should also be sympathetic to distinctive landscape areas and the Areas of Multiple Environmental Sensitivity.
39. The proposal would also conflict with the Framework paragraph 187, regarding the need to protect and enhance valued landscapes, and to recognise the intrinsic character and beauty of the countryside.

#### Agricultural land

40. The second reason for refusal included a lack of clarity as to whether the land is best and most versatile agricultural land Grade 3a or 3b. The Agricultural Land Classification Report submitted for the appeal indicates that the site can be considered equivalent to Grade 4 (poor) quality, due to its soil conditions. The Council does not dispute this, and no longer seeks to defend this reason for refusal. The proposal would not result in an irreversible loss or degradation of agricultural land due to its temporary status. Although the land has produced arable crops, the manner in which land is farmed is not subject to planning control. An alternative agricultural use could be put in place in any event. Overall therefore, the loss of agricultural land would be harmful, but only to a very minor extent.

#### *Other Matters*

##### Flood Risk

41. The Council's refusal included that part of the site lay within Flood Zone 2. Following updated flood risk evidence submitted to the Environment Agency, the Agency confirmed the site should be entirely removed from Zone 2. Online mapping is to be updated in Spring 2025, with an interim static version provided. The updated Flood Risk Assessment and Flood Risk Sequential Test thus now indicate a low level of risk. The Council is therefore no longer defending this reason for refusal, as drainage and flood risk matters could be addressed through the imposition of relevant conditions. On the evidence before me, I make the same conclusion. I am satisfied that were I to allow the appeal, conditions would appropriately address necessary matters, including the interested party concerns.

##### Noise Disturbance

42. Based on the submitted Noise Impact Assessment, the Council raised no objection relating to noise. This Assessment identifies currently expected noise levels plus an acoustic fence as mitigation. The Assessment models a worst case scenario based on levels for when the BESS facility is fully discharging energy to the grid at peak demand, which in practice would occur for only a short period normally during daytimes.

43. Any new noise is predicted to be below the representative background sound levels for both day and night at receptors, including internal levels with open windows at the closest dwelling. The New Leaf Plant Centre was not specifically referenced as a sensitive receptor, but the Noise Impact Assessment similarly indicates that noise levels at its outdoor and indoor cafe area would be below representative daytime background sound levels. I note interested party objections that it relies on the tranquillity of its surroundings to draw customers, but a café does in any event itself generate internal noise, further masking any effect. Also, relevant conditions would require a further noise assessment to be approved following confirmation of the final equipment specification. Overall, I am satisfied that the proposal would not result in harmful noise levels.

#### Fire Safety

44. Many residents and the New Leaf Plant Centre objected on grounds relating to fire safety. This was discussed in detail at the hearing, because in the eventuality of a fire occurring, it is clearly essential that it can be addressed and stopped as quickly as possible, with no health or other impacts caused. However, it is also important to be mindful of the probability of a fire igniting in the first place, and thus the very low magnitude of the overall risk due to fire detection systems, and use of components which comply with all relevant legislation.
45. The Derbyshire Fire and Rescue Service raised no objection, referring to the National Fire Chiefs Council (NFCC) and other relevant guidance, albeit noting that its role is advisory at this stage as BESS sites fall outside the scope of the Building Regulations. Once operational, the site would be encompassed within the scope of other fire safety legislation, giving the Fire Service a direct role.
46. The appellant's written and verbal evidence including the Outline Battery Safety Management Plan<sup>8</sup>, explains how the scheme has taken fire safety matters into account. This includes that design and future operation has taken account of the relevant guidance, and that equipment would require appropriate safety certification. I note the BESS fire examples put before me, but also acknowledge that lessons have been learnt in response.
47. The final iteration of all the fire safety elements cannot be determined at this stage, until permission is gained and final product specification confirmed. It is therefore commonplace for BESS approvals to include a condition to require a further Detailed Battery Safety Management Plan. This would require additional detailed information relating to design, operation, and methods for responses in emergency scenarios, and would provide additional assurance and direct consultation with relevant parties. The condition would not be discharged if at that point, the Derbyshire Fire and Rescue Service was not fully content with the scheme design and operational methodology.
48. If at installation stage any matters such as access, water supply, or separation distances, required substantial layout or other amendments for fire safety reasons, then the appellant would have to address this through the planning system. However, I do not find the evidence at this stage so compelling or certain that that would be the case, that the imposition of a fire safety condition would nullify the permission.

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<sup>8</sup> Abbott Risk Consulting Limited, ARC-1223-001-R4, February 2024.

49. The Council considers that sufficient comfort at this planning stage has been provided that safety risks are identified and can be satisfactorily managed. On the evidence before me I make the same conclusion, whereby all currently foreseeable hazards associated with the equipment have been identified, and would be actively managed throughout the scheme lifetime. As such, I am satisfied that fire safety matters have been satisfactorily addressed.

### *Other Considerations*

#### Renewable Energy

50. Battery Energy Storage Systems are cited in the PPG as enabling the use of energy more flexibly and de-carbonising the energy system cost-effectively.<sup>9</sup> They store excess electrical power from renewable generators which would otherwise be lost, and release this back into the grid during periods of high demand, or when renewable energy generation conditions are less favourable. This in turn means that they allow balancing of demand without resorting to additional generation from non-renewable energy sources. They have a key role in maintaining lower energy prices, and providing energy resilience and security. These are important nationally, but can also be felt locally.
51. The appellant identifies that the proposed 45MW BESS would have the ability to power 90,000 homes for 4 hours. It has a secured grid connection point to the National Grid Jordanthorpe substation approximately 1.4km to the north-east, and would connect prior to 2030 if the appeal were allowed.
52. This would help reduce CO2 emissions in line with the Government's well publicised net zero by 2050 ambitions and targets. Numerous appeal decisions have consistently referenced the significant benefits of renewable energy and BESS proposals, and how they are linked to the Government's strategies in this regard. Relevant reports and objectives include but are not limited to, the Energy White Paper 2020, the British Energy Strategy (2022), the Net Zero Strategy: Build Back Greener (2021), and the more recent Clean Power 2030 Action Plan (2024).
53. These outline the Government's encouragement for all forms of energy flexibility, to ensure sufficient electricity storage to balance the overall system, and the need to take action to ensure that the shift to a clean power system by 2030 forms the backbone of the transition to net zero. National Grid's Future Energy Scenarios Report (2022) also forecasts significant increased electricity storage need to support decarbonisation, with estimates of twelve-fold increase in capacity and seven-fold increase in volume needed from 2021 to 2050 to meet net zero.
54. The 2024 Framework revisions strengthened the stated need for, and support to, renewable and low carbon energy. Paragraph 161 identifies that the planning system should support the transition to net zero by 2050, and support renewable and low carbon energy and associated infrastructure. A BESS would be such associated infrastructure. Paragraph 163 requires planning applications to consider the need to mitigate and adapt to climate change. Paragraph 87(a) also requires making provision for new, expanded or upgraded facilities and infrastructure that are needed to support the growth of data-driven and high technology industries, including data centres and grid connections. BESS facilities enable economic growth in these sectors.

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<sup>9</sup> Paragraph: 032 Reference ID: 5-032-20230814

55. The NEDLP Policy SDC10 also supports renewable and low carbon energy generation schemes in principle, and Policy SSS1(l) identifies that development proposals will play a positive role in adapting to and mitigating the effects of climate change. Overall, the proposal would clearly contribute to the achievement of these national and local ambitions. I give significant weight to the proposal's benefits associated with renewable and low carbon energy generation and its contribution to a net zero future prior to 2030, as required by the Framework paragraph 168.

#### Alternative Sites

56. I have assessed the proposal before me on its own merits. The consideration of alternatives or a form of sequential test for BESS site selection are not mandated by the PPG or the Framework. The Bramley court judgement<sup>10</sup> and numerous appeal examples have confirmed this approach, as conceded by the Council.
57. Nevertheless, it is possible for site selection matters to contribute to being very special circumstances. The Alternative Site Assessment identifies that the only other possible sites using the same grid connection point would also require Green Belt land, on the basis of separation distances required from dwellings. Only one other site was identified as more preferable in landscape terms, but did not have landowner agreement so could not be taken forwards.
58. However, as I have found the appeal site would cause significant conflict with the openness and purposes of the Green Belt, I am unconvinced on the evidence before me that none of the other presented possible sites would cause less harm. Landowner willingness is obviously necessary, but there is very limited evidence of these discussions. Furthermore, the appeal site lies within a wider landholding, which may allow a less harmful positioning, notwithstanding that it would not be the landowner's preference. Therefore, while acknowledging that consideration of alternative sites is not required in isolation in justification of the proposal, these issues do direct me to give only limited weight to its specific locational need.

#### Biodiversity

59. Although interested parties raised concerns about potential impacts on wildlife and ecology, on the basis of the evidence before me and the ability to impose suitable conditions, I concur with the Council in finding no harm on this basis.
60. The proposal was submitted prior to the statutory minimum 10% BNG provision coming into force. However, more general biodiversity improvements are required by the ERLP Policy SDC4(b), the DNP Policy ENV4, and the Framework paragraphs 187(d) and 193(d). The proposal would avoid any effects on hedgerow and water course habitat units, in recognition of their existing ecological value. The BNG Report and Metric identify that the proposal would result in 28.98% BNG delivery of on-site habitat units, although this does not take full account of its access road, which suggests the BNG figure should be slightly lower.
61. To some extent the value of this uplift is due to the low distinctiveness ecological value of the existing arable land, with the absolute size increase of 1.57 habitat units being relatively low. However, the proposal would introduce new habitat types of mixed scrub and individual trees, which would be of medium distinctiveness, as well as creating low distinctiveness modified grassland. It would

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<sup>10</sup> Bramley Solar Farm Residents Group v Secretary of State for Levelling Up, Housing and Communities, Bramley Solar Limited & Basingstoke and Deane Borough Council & Others [2023] EWHC 2842 [Admin]

add to the green infrastructure network of the area. Favourable effects of the landscaping could also be retained at the point of decommissioning. Overall, I give these biodiversity benefits minor weight in favour.

#### Economic benefits

62. The proposal would enable job creation during the construction phase. It would generate £250,000 per year to business rates. The appellant also suggests a public benefit from fiberoptic cable upgrades of £200,000. I give minor weight cumulatively to these benefits.

#### Planning Balance and Conclusion

63. The great weight to which I give the proposal's less than substantial harm to the CA, would be outweighed by its public benefits. However, the proposal would also cause significant harm to the character and appearance of the area, including due to its status as a valued landscape, and being within a primary Area of Multiple Environmental Sensitivity. Although tempered because the proposal would not be permanent, I give this harm significant weight.
64. The proposal would reduce the openness of the Green Belt, and would conflict with multiple purposes of including land within it. It would therefore conflict with the NEDLP Policies SS1 and SS10, and with the Framework. It would be inappropriate development in the Green Belt, which is harmful by definition, and to which I attach substantial weight as required by the Framework paragraph 153.
65. The DNP Policy ENV1 suggests further weight to this extent of Green Belt harm in this location. Although the policy wording itself does not expand on that within the Framework and the NEDLP, it is hard to understand the rationale for developing a neighbourhood plan and including such a policy within it, if no additional level of protection is provided for that which local people have identified as most valuable.
66. The PPG identifies that neighbourhood planning enables communities to play a much stronger role in shaping the areas in which they live and work, and that they can put in place planning policies that will help deliver that vision<sup>11</sup>. The strongly communicated vision includes protection for this area of countryside. I find similarly for the DNP Policy ENV2 relating to landscape character harm. Interested parties at the hearing summarised the large amount of work and public involvement in creating the DNP, and its very strong level of support at referendum. There would be a very significant level of harm in this regard, despite the temporary nature of the proposal.
67. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Against the totality of the harm I have identified, I give significant weight to the main other consideration advanced by the appellant in support, being the proposal's contribution to net zero and mitigating climate change. I also give limited weight to the evidence which suggests a lack of local alternative sites, and minor weight in favour to its biodiversity and economic benefits.

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<sup>11</sup> Paragraph: 003 Reference ID: 41-003-20190509

68. I acknowledge that many relevant BESS appeal decisions share a consistent outcome of very special circumstances outweighing all other harm. However, I have assessed the proposal before me on its own merits.
69. In this instance, I find overall that the benefits of the proposal are cumulatively insufficient to clearly outweigh the extent of the harm to the Green Belt and the other harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
70. As such, the proposed development would therefore conflict with the development plan and the Framework taken as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

*L N Hughes*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANTS:

|                         |                                                 |
|-------------------------|-------------------------------------------------|
| Mr Joe Bennett          | Principal Planning Consultant, RCA Regeneration |
| Ms Sian Griffiths       | Director, RCA Regeneration                      |
| Miss Francesca Saberton | Senior Planning Manager, YLEM Energy            |
| Miss Sarah Lightfoot    | Head of Development, YLEM Energy                |
| Mr John-Paul Friend     | Director, LVIA Ltd                              |
| Mrs Kirsten de Savary   | Owner, Amber Planning Flood Risk & Hydrology    |

### FOR THE LOCAL PLANNING AUTHORITY:

|                   |                                             |
|-------------------|---------------------------------------------|
| Miss Kerry Hallam | Senior Planning Officer                     |
| Ms Susan Wraith   | Planning Consultant, 4Planning Delivery Ltd |
| Mr Adrian Kirkham | Development Management Planning Manager     |

### INTERESTED PERSONS:

|                    |                                                                                     |
|--------------------|-------------------------------------------------------------------------------------|
| Mr John Pople      | New Leaf Plant Centre                                                               |
| Cllr Mark Foster   | Dronfield Town Council, North East Derbyshire<br>District Council – Coal Aston Ward |
| Mrs Sarah Alkins   | Local resident                                                                      |
| Miss Rebecca Hall  | Local resident                                                                      |
| Mr Charles Hall    | Local resident                                                                      |
| Mr Martin Hanrahan | Local resident                                                                      |
| Mrs Shelley Hinson | Local resident                                                                      |
| Ms Nary McNulty    | Local resident                                                                      |
| Mr Paul Reaney     | Local resident                                                                      |
| Mr Tim Vaughan     | Local resident                                                                      |
| Mr Richard Watson  | Local resident                                                                      |

## DOCUMENTS SUBMITTED AT AND AFTER THE HEARING

|    |                                  |                                                                                          |
|----|----------------------------------|------------------------------------------------------------------------------------------|
| 1. | Appellant                        | Appeal reference APP/V4630/W/24/3347424, Land off Chapel Lane, Great Barr, Walsall       |
| 2. | Resident                         | Appeal reference APP/P3040/W/24/3352048, Land off West Leake Lane, Ratcliffe, Nottingham |
| 3. | Meadowhead School and Sixth Form | Late email representation received 26 February 2025                                      |
| 4. | Resident                         | Scaled drawings of visibility splays, received 28 February 2025                          |
| 3. | Appellant                        | Biodiversity Gain Plan V3.2 07/03/25 and Biodiversity Metric                             |