
Appeal Decision

Site visit made on 7 July 2025

by **B Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 July 2025

Appeal Ref: APP/Q4625/W/24/3355759

Henwood Lane, Catherine de Barnes B91 2SZ

- 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 ARL016 against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2023/01954/PPFL.
 - The development proposed is the construction, management and operation of a Battery Energy Storage System (BESS) with associated infrastructure, including access, drainage, security measures and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the construction, management and operation of a Battery Energy Storage System (BESS) with associated infrastructure, including access, drainage, security measures and landscaping at Henwood Lane, Catherine de Barnes, B91 2SZ in accordance with the terms of the application, Ref PL/2023/01954/PPFL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. A screening opinion, undertaken by the Council in accordance with the Town and Country Planning (Environmental Impact Assessment (EIA)) Regulations 2017 concluded that the proposal was not deemed to be EIA development. I see no reason, within the evidence, to disagree with this view.
3. Amended plans have been submitted by the appellant in support of the proposal. Several have been submitted to correct some errors in drafting. A revised site layout plan (reference ARL016-D-PL-EXT-002 R02 – General Arrangement) has been submitted to show the correct location of the acoustic fencing, in alignment with the recommendations of the Noise Assessment. Also, the Landscape Strategy Plan (ref ARLM3004-3003) has been updated to show a category C Sycamore tree that was previously shown to be retained as now requiring removal.
4. A revised drainage layout plan (ADC3108-DR-Z01-0050 rev P09) has been submitted to accord with the comments made by the Lead Local Flood Authority and the Council's ecologist. Also, the Design and Access Statement (DAS) has been updated to correctly refer to the maximum height of equipment as being 6.77 metres (rather than up to 6 metres as previously stated). Furthermore, the appellants have corrected the construction period referred in the DAS to 14-18 months (rather than the previously stated 24 months).
5. Also, the appellant has submitted a series of minor revisions that seek to reduce the width of the site access roads. These have been reduced to 6 metres from

varying widths of 8 and 10 metres. Also, areas of hardstanding to the northeast of the northern compound have been removed, additional woodland and hedgerow planting is proposed along the northern boundary of the site and the originally proposed metal gates at the entrances to the site would be replaced with 1.2 metre high wooden gates. These revised details are minor and/or have been discussed in supporting documents. Revised photorealistic visualisations have been provided (within the appellant's Statement of Case - appendix 6) to show the effect on views of the proposed changes.

6. The alterations to the refused plans either reduce the scale of the scheme or propose additional enhancements that are minor in nature and do not alter the substance of the proposal. As a result, and in mind of the Wheatcroft Principles, I have accepted the amended plans, which I am satisfied would not cause prejudice to any party.
7. The proposed BESS would have a capacity of around 100MW and is sought for a 40 year temporary period.

Main Issues

8. It is undisputed between main parties that the proposal would amount to inappropriate development in the Green Belt. Accordingly, the main issues are:
 - The effect of the proposed development on the openness of the Green Belt and its purposes,
 - The effect of the proposal on the character and appearance of the area, including consideration of the effect on heritage assets,
 - The effect of the proposed development on highway safety,
 - the effect of the proposed scheme on, and the potential loss of, best and most versatile agricultural land, and
 - whether any harm caused by the proposal, by virtue of being inappropriate development, and any other identified harm, would be clearly outweighed by other considerations to result in 'Very Special Circumstances'.

Reasons

Openness and Green Belt purposes

9. Policy P17 of the Solihull Local Plan (LP) [2013] is concerned with the Countryside and the Green Belt. This states that, among other matters, the Council will not permit inappropriate development in the Green Belt except in very special circumstances. Section 13 of the Framework establishes the national policy objective to protect the Green Belt. Paragraph 154 (a-h) defines different types of development that would not be inappropriate development in the Green Belt. It is uncontested by main parties that the proposed BESS would not comply with these provisions. I see no reason, within the evidence, to disagree with this assertion.
10. The appeal site consists of two fields used for agricultural purposes found adjacent to Henwood Lane. The site also shares two boundaries with the Grand Union Canal. The site presents an open rural character and appearance and is interconnected with surrounding fields forming an open tapestry of agricultural

land. The small housing estate of Catherine's Close is opposite the site entrances and other separate dwellings, dispersed along Henwood Lane are within the local area. The proposal would include equipment containers and industrial features that would, in combination, erode the undeveloped nature of the existing site.

11. The proposed development would materially alter the appearance of the site and would only partially be contained by boundary trees and hedging. As a result, the proposal would inevitably reduce the openness of the site both visually and spatially. Nonetheless, the operational parts of the site (ie those parts that would contain the two compounds) would be proportionally small elements of the entire site, covering around 20% of the site, and would be partly screened by existing and additional planting, having relatively localised effects. Also, whilst the proposed scheme would be temporary in nature its 40-year period would be an extended period of time.
12. Furthermore, despite noting the presence of the existing pylons, the proposal would undermine the contribution made by the site in assisting in safeguarding the countryside from encroachment resulting in adverse harm to a main purpose of the Green Belt. Accordingly, the proposal would reduce the openness of the Green Belt and represent encroachment, resulting in further harm to the Green Belt. The proposal would be inappropriate development in the Green Belt, and in addition it would cause harm to openness and a Green Belt purpose, resulting in conflict with the Framework and LP policy P17. This policy seeks, among other matters, for the re-use of land to not have a materially greater impact on the openness of the Green Belt and the purposes for including land within it.

Character and appearance

13. There is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people (receptors) observing the development in places where it can be viewed, such as from roads, public rights of way and individual dwellings.

Landscape character

14. The appeal site consists of two fields used for arable farming and has low wattage overhead pylons running through the site. It is adjacent to Henwood Lane within the open countryside and is close to the village of Catherine-de-Barnes. The site is on a relatively flat area of land, sloping slightly towards the canal. Other than the pylons running through the site, the site is an undeveloped parcel of land within the local gently rolling landscape.
15. The scheme would consist of a north and south compound, located either side of the pylons within the two fields. The appeal site is bisected by a field boundary hedge which is proposed to be retained. The southern compound would contain the BESS with 64 containerised units, 16 associated battery inverter stations, two control rooms, two switch rooms and two axillary transformers. The containers would be arranged in two groups within two rows. This compound would be largely enclosed by a 2.4m high weld mesh fence with an acoustic fence on its northwest boundary. Most equipment would be lower than the compound's perimeter fencing with only the control rooms and switch rooms standing at a slightly taller height.
16. The northern compound would include 'private' compounds, two associated control rooms and a switch room. This compound would be enclosed by a 2.4m high

palisade fence, screened from views by a 3m high acoustic fence and planting. The maximum height of equipment in this compound would be around 6.7m high, but most components would be substantially lower.

17. The appellant's Landscape and Visual Impact Assessment¹ (LVIA) identifies that at a national level the site falls within National Character Area 97: Arden. This is characterised as farmland and former wood-pasture land, set within a gently rolling landscape with fragmented semi-natural and ancient woodlands. The site is within the Council's Landscape Character Area LCA1: 'Solihull Fringe', consisting of arable and pastoral fields and some ancient woodlands. This area is identified as having a medium landscape sensitivity, of medium landscape value and a low capacity to change. The appeal site, being in arable use and set within a rolling rural landscape, is reflective of the area's character and as such the site makes a positive contribution to the landscape characteristics of the area.
18. The proposed BESS would include containerised battery units, a switch room, transformer units and control room, battery inverters, security and acoustic fencing, associated equipment, hardstanding areas and two access driveways. The proposed development would cover two distinct areas in each field with a sizeable presence. However, due to the relatively low-lying nature of the proposed buildings and equipment, and the retention of existing boundary hedging, the effect on the wider landscape would be modest.
19. As such, the proposed scheme, would result in some localised landscape harm within the rural landscape. However, it would retain the field boundaries and thus the field pattern and distribution of boundaries in the area. Consequently, the scheme would result in a low magnitude of change to the character of the landscape. This would result in a minor adverse effect on the area's landscape character once planting has become established.

Visual impact

20. The area surrounding the site includes a small group of houses, which are generally grouped around Catherines Close, opposite the site. Due to the site's open and agricultural character the field makes a positive contribution to the character and appearance of the surrounding countryside.
21. Visual amenity relates to the direct visual impacts on receptors (people) rather than on the landscape. The appellant's LVIA has identified where within the surrounding area the proposal is likely to be visible. Public views of the proposal could be obtained from Henwood Lane and from the towpath that follows the Grand Union Canal, which runs alongside the southern and eastern boundaries of the site. Trees and hedges around the site were in leaf during my visit and it is recognised that views of the proposed development would be greater in winter months. Users of the footpath would be highly sensitive to change. This footpath provides wide sweeping views for receptors over the land, when passing the site, through gaps in the tree and hedge screen on the perimeter of the site. Whereas views of the site from Henwood Lane, apart from the canal bridge, are relatively limited due to its enclosed nature.
22. The general topography of the site and its surroundings provide screening from many wider views forming a degree of enclosure. The appellant's LVIA, has

¹ Landscape and Visual Impact Assessment, Turley, August 2023

identified the study area through an assessment of a series of ViewShed maps in Google Earth. The selected Viewpoints (VPs) are shown on figure 3, with points selected along the adjacent highway, the Public Right of Way (PRoW) [Solihull SL 8] and the towpath along the canal. I have adopted the 'magnitude of change' and 'sensitivity to change' descriptors found in the LVIA in my consideration of the proposal.

23. The appellant's LVA identifies ten VPs which assess the effect of the scheme on Visual Receptors. The viewpoints have been accepted by the Council as being the most significant and useful in understanding the visual effects of the proposal. I am cognisant that these selected viewpoints provide only a snapshot of the site, and these would not necessarily fully reflect the experience of receptors walking alongside and past the site with sequential views.
24. Users would see parts of the site from sequential views along the canal towpath through VP1.1, VP1.2, VP1.3, VP1.4 and VP1.5, and would have a medium/high sensitivity to change. From these VPs walkers would experience partially open and direct views of the site, obscured in part by boundary hedge and tree screening. These views along the canal towpath currently take in the overhead cables, introducing man-made features to this vantage. Receptors would mostly see the containers of the southern compound, enclosed by a weld mesh fence, tree and hedge planting. At other points along the towpath the northern compound with its associated equipment would be seen through gaps in the boundary hedging. In some views the proposed development would be prominent. Views across the site already take in the existing pylons and landscape screening. As such, receptors (both walkers and canal boat users) would experience a medium magnitude of change, and a moderate adverse visual effect at year one.
25. VP2, from the PRoW takes in views over the site from the southwest corner at the junction with Henwood Lane. Users of this route would have a medium/high sensitivity to change. From this vantage receptors would glimpse views of the containers but may not be able to see the switch room and associated equipment from this vantage. This view would experience a low magnitude of change, with receptors experiencing a minor adverse effect at year one.
26. Motorists using Henwood Lane (VP3.1), Berry Hall Lane (VP4) and Catherines Close (VP5) would have a medium sensitivity to change. The amended plans include changes to the access points. These would create smaller accesses, retaining a greater provision of roadside planting and de-emphasising their commercial appearance. The proposed wooden gates across the access points would be semi-permeable, enabling some of the long views through the site to be retained. Generally, road users would have limited views of the site towards the compounds. Although views would be greater in winter months, these would remain filtered.
27. Furthermore, roadside hedging and trees along Henwood Lane provide a largely effective screen to most of the site, with only occasional gaps offering glimpsed views. Road users would have a low sensitivity to change, gaining only fleeting views of the site as they pass. Nonetheless, views of the site would be more overt from the bridge when crossing the canal for a short period. Motorists of Henwood Lane would experience a low magnitude of change, resulting in a moderate-minor adverse effect. Taking the amended access details into consideration, motorists of

Berry Hall Lane and Catherines Close would experience a low magnitude of change and a minor adverse visual effect at year one.

28. In terms of mitigation, the landscape proposals demonstrate that the proposed compounds would be contained within two discreet parts of the site. These would be enclosed by new hedgerow and woodland planting that would expand and reflect adjacent field boundaries. Existing hedging, to the south and east boundaries, would be strengthened with new areas of mixed native tree and hedge planting. Also, a variety of tree and shrub planting would be installed to the southwest of the switch-room compound, infilling the space up to Henwood Lane. The proposed woodland areas would connect to existing woodland groups beyond the site.
29. Accordingly, the proposed planting would provide an effective screen to the proposed development that would largely appear as natural extensions of existing plant forms. Furthermore, once the planting becomes mature, around year 15, the visual effects for users of the canal towpath would be reduced from moderate adverse to a moderate-minor adverse effect. It would also reduce the visual effects to minor adverse for all other viewpoints. Also, the moderate-minor visual effect would also only be localised to immediate views around the site boundary, limiting the visual effect of the proposal on the wider area.

Heritage effects

30. The Framework states that when considering the impact of development on the significance of designated heritage asset, great weight should be given to the asset's conservation.
31. Bogay Hall is a grade II* listed building. It is close to the north-west corner of the application site but recessed from Henwood Lane by about 20 metres. It is a C16 timber framed country house. It includes a close-set timber frame with white-washed plaster infilling, tiled roofs, lattice casement windows and ornate red brick Tudor style chimneys. It is largely hidden from the highway by a front boundary, but the agricultural landscape provides a wider setting of the heritage asset. Its significance derives from its architectural and historic interest. The proposed scheme would alter the wider setting of the building, resulting in less than substantial harm, albeit at the lower end of harm.
32. Henwood Mill, a grade II listed building, is located to the south of the site. This C18 building is beyond the canal bridge on Henwood Lane. It is a two-storey brick building with a gabled door hood. The significance of this building derives from both its architectural and historic interest. Views between the site and this building are obscured by vegetative screening creating no material intervisibility. As a result, the proposal would have a negligible effect on the setting of Henwood Mill, preserving its significance.
33. The Grand Union Canal is a non-designated heritage asset (NDHA). The canal gently meanders through the rural landscape, which as a response to topography, follows the contours of the land. The significance of the canal relates both to its architectural and historical interest. Due to its proximity and overall scale the proposal would have a low adverse effect on the significance of this asset.
34. The Framework states that in weighing the effect of development on the significance of a NDHA, a balanced judgement will be required having regard to

the scale of harm and the significance of the asset. The Framework also explains that where less than substantial harm is found to designated heritage assets this harm should be weighed against the public benefits of the proposal.

35. The proposed BESS would support renewable energy technologies by reducing supply issues with their intermittency. It is apparent that the national need for additional renewable energy generation, and its associated infrastructure such as BESS, is required to support the country's transition to Net Zero by 2050. On this basis the public benefits of the proposal, even in applying great weight to the identified harm, would outweigh the less than substantial harm found to the significance of the identified heritage assets. For the same reasons, and in applying a balanced judgement, the adverse harm found to the canal would be outweighed by the stated benefits.

Summary of effects on character and appearance

36. Consequently, the proposal would result in minor adverse landscape harm, moderate-minor adverse visual effects from the canal towpath and minor adverse visual effects from other viewpoints. The moderate-minor adverse effects on users of the towpath would result in a localised harm for a short period for those travelling along this route. As such, these effects are not considered to be significant impacts that would weigh against the proposal. Accordingly, the proposal would not cause harm to the character and appearance of the site and its surrounding area. As a result, the proposal would comply with LP policies P10, P14 and P15. These seek, among other matters, for development to protect the diverse landscape features of the borough, consider the visual effect of development on occupiers and new users and to conserve and enhance local character.

Highway effects

37. Two access points are proposed from Henwood Lane, providing separate access to two compounds. Henwood Lane connects to Hampton Lane (B4102) around 750 metres to the north of the site. This road then connects to the A41 and this leads on to the motorway network. The appellant's Highway Statement² explains that once operational the site would attract a maximum of one light goods vehicle a day, having no material effect on the highway.
38. The appellant's Statement identifies that the construction period would last around 18 months, the number of vehicles significantly lessening after the first nine months. During the first period, it explains that the site would be visited by around six Heavy Goods Vehicles or abnormal load vehicles per day, using the above route to the motorway. The appellant indicates that construction would take place 08:00-18:00 Monday to Friday and 10:00 to 16:00 on Saturdays.
39. In addition to this, the construction process would attract a range of other vehicles such as cars, vans, commercial HGV flat beds, cranes and standard construction vehicles. Figure 1 of the Statement demonstrates how construction traffic would be dispersed across the construction period. This shows that construction traffic, including HGV's, would occur between weeks 3-37. Between weeks 20-22 the total vehicles attending the site would peak at 102 vehicles, spread over 6 days

² Highways Statement of Case, by pb, November 2024

(including Saturday morning) this would result in an average of 17 vehicles a day (consisting of 34 two-way journeys).

40. Henwood Lane is subject to a 30mph speed restriction. The appellant's speed survey demonstrates that the 85th percentile speed of existing traffic comply with the speed limit. The existing traffic flow data demonstrates that weekday total traffic flows are 176 vehicles. This, plus the construction vehicles at the maximum period of intensity would raise the total traffic flow to 210 and one vehicle movement every 5-6 minutes. This would represent an infrequent, low intensity traffic flow that would substantially limit the chances of vehicles needing to pass each other and cause conflict.
41. Henwood Lane is a relatively straight highway between the site and Hampton Lane. It is unlit, with no footway and is of a restrictive width. Moreover, at a halfway point there is an S bend, creating limited forward visibility for a short period and the road narrows at this point. During construction, the largest vehicle expected to attend the site would be a 16.5m articulated vehicle. Nonetheless, tracking plans demonstrate that such a vehicle could successfully navigate Henwood Lane. These also show that two vehicles (consisting of an articulated lorry and private car) could pass in certain places, albeit with vehicles passing very close to each other and I acknowledge the concerns of the Highway Authority in this respect.
42. Construction vehicles associated with the proposal would include abnormal loads, these are shown to represent around 10 movements a week during the peak construction period. The draft Construction Traffic Management Plan (CTMP), submitted by the appellants in support of the proposal, explains that banksmen would be used to direct vehicles in and out of the access. This would take place both at the Henwood Lane/Hampton Lane junction and along Henwood Lane as necessary during the construction period. Effective management of such a system would prevent, or at least substantially reduce, any potential highway conflict between vehicles. Based on the low number of existing vehicles reported to use Henwood Lane, any disruption to traffic unrelated to the construction of the site, would only need to be delayed in passing points for a short period, causing minimal disruption to other highway users.
43. The amended plans have reduced the radii of the access points from 10 metres to 6 metres. I am satisfied that this alteration would not reduce the safe operation of the accesses. It is accepted between parties that a 43m visibility splay from each access point would be required and can be obtained. The northern access is close to the Berry Hall Lane junction, causing some potential for conflict. Nonetheless, bearing in mind the extremely low intensity of use proposed for the north access once operational and existing traffic numbers using the lane, the scope for conflict during and post construction would be limited.
44. Accordingly, I find that construction traffic generated by the development would not cause significant, or even moderate, delays to other road users. Further, this activity would not generate conflict between HGVs and other road users that would harm highway safety. The distance that construction vehicles would need to cover between Hampton Lane and the site access is relatively short and existing traffic using this route is noted as being very low. I am cognisant that walkers, cyclists and horse riders also use the lane. However I see no reason, within the submitted evidence, that the movement of construction vehicles would materially degrade the safe use of the lane for these groups.

45. Moreover, the evidence shows that passing places would be infrequently required and when required would be suitable for vehicles and other road users to safely pass on most occasions. On occasions when difficulty may arise along Henwood Lane, such as if two HGVs should need to pass, assistance would be nearby to prevent congestion or safety concerns subject to the implementation of a robust CTMP.
46. The appellant has also suggested that a signalised system could be implemented over a 250-metre section of Henwood Lane. Although this seems excessive, for the traffic flows identified under consideration, this option could be explored through a refined CTMP that could be secured by condition if sought by the Council. Consequently, the impact of congestion around Henwood Lane would be (at most) occasionally inconvenient for other road users in causing vehicles to wait at passing points. Although inconvenient, this action would not have an adverse effect on highway safety or result on an impact on the surrounding highway network would be of such a magnitude to be calibrated as 'severe'.
47. Accordingly, the proposal would comply with LP policy P8. This states that development will not be permitted if it would result in a significant increase in delay to vehicles, pedestrians or cyclists or would result in a reduction in safety of any road users or the highway network.

Effect on agricultural land

48. LP Policy P17 identifies that the Council will safeguard the 'Best and Most Versatile' (BMV) agricultural land in the Borough and encourage the use of the remaining land for farming. It states that development affecting BMV land will be permitted only if there is an overriding need for the development and there is insufficient lower grade land available.
49. Paragraph 187(b), of the Framework, places value on recognising the intrinsic character and beauty of the countryside including the economic benefits of BMV agricultural land. The Framework's Glossary defines BMV land as being land of Grades 1, 2 and 3a of the Agricultural Land Classification. Footnote 65 of the Framework states that 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.
50. The appellant's Agricultural Land Classification Report identifies that the appeal site consists of Grade 1 (excellent) agricultural land. Accordingly, the site has significant arable value and if it became used as a BESS it would no longer be capable of providing such a function. Consequently, the site would be precluded from arable farming for the duration of the proposed use. Although the proposal is proposed to be for a temporary use, 40 years would be a considerable period that the site would not be in active agricultural use.
51. In terms of an 'overriding need' as sought by LP policy P17, the appellant has identified that a BESS requires access to a viable connection to the electricity network to function. The appellant's Alternative Site Assessment³ demonstrates that of the 7 substations within the district, only the Copt Heath substation was deemed suitable, and a point of connection was offered by the Distribution Network Operator to connect either side of the pylon that passes through the

³ Alternative Site Assessment, Arlington Energy, August 2023

appeal site. The appellant explains that a site search, for an area within 1km of the pylon, was undertaken from this Point of Connection. The site search revealed that the sites on the brown field land register, within the search area, were too small. Furthermore, whilst 11 other sites were identified as being potentially suitable, these were also within the Green Belt and did not offer a preferred site based on a set of reasonable criteria.

52. As such, and despite the Council's assertion, no alternative sites have been shown to be more suitable for the proposed scheme due to planning, environmental and other technical reasons and therefore these were eliminated for reasonable reasons.
53. The appellant has demonstrated that the site is well located to access the nearby Copt Heath 132/11kv substation to the southwest of the site via the pylon on site. Access to the Circuit would be achieved via a direct connection to the pylon. Although a sequential approach to the siting of BESS development is not required by local or national policy, the appellant has demonstrated that local alternative sites were considered, that capacity exists on this line and that a Grid Connection Offer is in place to connect to the Grid in 2027. These factors weigh in favour of the proposal and support its location despite its effect on BMV land.
54. Turning to the availability of lower grade land, the appellant's Agricultural Land Classification report demonstrates that most land within the search area (1km of the site) is also likely to consist of BMV land. This both illustrates that lower quality land is unlikely to be available locally and shows that there is a wide provision of BMV land within the local area.
55. Therefore, although the proposal would result in the temporary loss of BMV land the alternative site selection process has demonstrated that alternative land would not offer a more suitable location in land use terms. Although, the use of BMV agricultural land is discouraged by the Framework, the proposal is for a temporary period of forty years and there is no clear reason why the soil would not recover to its existing quality in due course.
56. In such circumstances, the agricultural land would not be permanently or irreversibly lost. Consequently, the overall impact on BMV land would be modest. These factors reduce the overall impact of the proposal on the Council's objectives to protect BMV land from development. Accordingly, the proposal would raise conflict, albeit modest, with LP policy P17 whose objectives have been set out above.

Benefits of the scheme - renewable energy

57. The appellant identifies a national need for BESS. This both ensures energy security and assists the Country in achieving a net zero economy. The proposed BESS would store power from the National Grid at times of excess supply and feed this back into the grid at times of high demand. The appellant describes a clear linear relationship between the amount of renewable energy generation and energy storage. This is required to meet legal obligations and policy objectives relating to climate change and in supporting greater levels of national energy security. It is especially important to accommodate the fluctuating nature of energy generated from renewable sources which is dependent on time of day and the weather, to support non-renewable sources of energy generation.

58. Therefore, whilst the proposal itself is not a renewable energy project *per se* it would provide enhanced energy resilience in the National Grid. As such, the energy to the proposed BESS would be generated by both renewable and non-renewable energy but over time it would provide greater support for renewable energy production.
59. A material consideration in the determination of planning proposals for renewable energy and associated facilities, are the National Policy Statements (NPS) for the delivery of major energy infrastructure. This application is not an energy development which is a nationally significant infrastructure project under the Planning Act 2008. Nonetheless, the Overarching NPS for energy (EN-1) may be a material consideration for applications under the Town and Country Planning Act 1990 (as amended). This sets out the national policy for energy infrastructure and establishes the Government's approach to meeting its net zero objectives. It recognises that to meet the Government's objectives and targets for net zero by 2050, significant large and small-scale energy infrastructure will be required. Furthermore, the NPS for Renewable Energy Infrastructure (EN-3) sets out national policy in respect of renewable energy and identifies '*an urgent need for new electricity generating capacity to meet our energy objectives*' which would clearly also require storage.
60. The NPS (EN-1) states that:
61. *"There are several different types of electricity infrastructure that are needed to deliver our energy objectives. Additional generating plants, electricity storage, interconnectors and electricity networks all have a role, but none of them will enable us to meet these objectives in isolation⁴"* and that *"storage and interconnection can provide flexibility, meaning that less of the output of plant is wasted as it can either be stored or exported when there is excess production. They can also supply electricity when domestic demand is higher than generation, supporting security of supply⁵"*
62. Accordingly, I am satisfied that the proposal would directly support the development of new energy generating facilities which will increasingly be delivered from renewable energy sources and therefore the proposal can reasonably be regarded as low carbon energy associated infrastructure.
63. The UK Government has declared a climate emergency and set a statutory target of achieving net zero emissions by 2050, and this is also a material consideration. Since the declaration, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change has indicated that there is a greater than 50% chance that global temperature increases will exceed 1.5 degrees Celsius above pre-industrial levels. The report indicates that delay in global action to address climate change will miss a rapidly narrowing window of opportunity to secure a liveable and sustainable future for all⁶.
64. The NPSs recognise that to meet the Government's objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. This identifies that *"Storage has a key role to play in achieving net zero and providing flexibility to the energy system, so that high volumes of low carbon*

⁴ National Policy Statement-EN1, paragraph 3.3.4

⁵ National Policy Statement-EN1, paragraph 3.3.6

⁶ IPCC Sixth Assessment Report - Summary for Policymakers, figure SPM.6

power, heat and transport can be integrated⁷". It seeks solutions that include "maximising the usable output from intermittent low carbon generation⁸".

65. The Council made a climate emergency declaration in 2019 and this has led to the Council's development of a Net Zero Plan. LP policy P9 sets out measures to help address climate change. The Council recognises the important role that battery storage plays in the transfer of energy supplies from fossil fuels to renewables. It notes that more reliance will be placed on renewable energy sources in the future and the energy gathered will require storage when demanded by consumers.
66. Planning Practice Guidance (PPG), on renewable and low carbon energy, states that 'there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and critically, the potential impacts on the local environment, including from cumulative impacts.'⁹
67. The Framework explains that when dealing with planning applications, planning authorities should support the transition to a low carbon future, improve resilience and support renewable and low carbon energy and associated infrastructure. Consequently, these benefits, that support the provision of battery storage and assist in the delivery of renewable energy, are of substantial weight in favour of the scheme.

Other benefits

68. The proposed scheme, including the amended plans showing enhancements, would provide enhanced biodiversity, with a reported 36.99% net gain in habitat units and an 21.07% net gain in hedgerow units. The provision and distribution of landscape planting enhancement is demonstrated on the Illustrative Landscape Masterplan, showing new woodland pockets around the compounds and new tussock grassland native mix with growing native mixed scrub planting. The proposal would therefore achieve a net gain to biodiversity as sought by LP policy P10 and the Framework. Accordingly, the provision of a substantial uplift in biodiversity is of significant weight in favour of the proposal.
69. The appellant explains that the proposal would deliver new investment and employment, during both construction and operation. It is also stated that the scheme would involve around 30 employees during construction, with a small number of staff attending the site through the operational phase. Nonetheless, the construction phase would be relatively short and provide employment over only a limited period of time, and it is expected that the servicing and maintenance of the equipment on site would be relatively infrequent. As such, whilst recognising there are socio-economic benefits of the proposal this attracts only limited weight in favour of the proposal.

⁷ National Policy Statement-EN1, paragraph 3.3.25

⁸ National Policy Statement-EN1, paragraph 3.3.27

⁹ PPG, Paragraph: 005 Reference ID: 5-005-20150618

Other Matters

Noise effects

70. Paragraph 198(a) of the Framework requires development to be appropriate for its location taking into account its likely effects on existing living conditions. This requires account to be taken of the need to mitigate and reduce, to a minimum, potential adverse impacts resulting from noise and to avoid noise giving rise to significant adverse impacts on health and the quality of life. The Noise Policy Statement for England includes the key aim for development to avoid significant adverse impacts. British Standard BS4142 'Methods for Rating and Assessing Industrial and Commercial Sound' is typically used to measure the effects of existing and proposed noise levels. This indicates that Significant Observed Adverse Effects are likely to be experienced where noise levels are recorded, at noise sensitive receptors, would result in material changes to behaviour, attitude or other physical response. These changes would result in the quality of life being diminished due to a change in the acoustic character of the area.
71. The proposal would include 64 battery housing containers, and 36 Inverters with transformers. The Appellant's Noise Assessment¹⁰ considered the effect of noise received at the nearest noise sensitive receptors, being 12 nearby dwellings ranging between 'The Lodge' (105 metres from the site) to 245 Hampton Lane (505 metres from the site). Background noise level assessments were undertaken in two locations, with background daytime noise levels ranging from 47-44dB L_{A90} and background night-time noise levels of 46-42dB L_{A90}.
72. The Assessment's predictive noise modelling uses data from plant similar to that proposed on site from manufacturer's data and library data. The noise from the Battery Storage units would be around 65dB(A) at 1m. The inverters are reported to create a noise output of 82.8dB L_{WA} (at 80% duty) and 72.3dB L_{WA} (at 50% duty). The DNO Metered Substations and Transformers have been found to generate a sound level of 87dB L_{WA}. In terms of mitigation, the Assessment finds that many noise sources are contained within the southern compound and, as a result, a 3 metre high acoustic barrier is proposed to the northwestern boundary of the BESS compound.
73. The predicted operational noise levels show the noise effects of the equipment as measured at the 12 local receptors. These illustrate that due to distance and obstructions, the predicted noise levels at these locations during both daytime and night-time, would not exceed background noise levels. Furthermore, whilst interested parties have raised concerns as to the effect of the 'hum' associated with such equipment, there is no compelling evidence before me to suggest that such a low noise level would be greater than that caused by the existing pylons. Also, Construction noise would be limited, would take place during the daytime only and would be adequately controlled by existing environmental noise protection powers.

¹⁰ Noise Assessment, ion Acoustics, September 2023

74. Consequently, taking the above into consideration, I am satisfied that with attenuation the scheme would achieve noise levels that would not exceed background noise levels at local residential properties. Accordingly, these would not result in an observed adverse noise effect and consequently these results identify no conflict with the Framework. I am satisfied that the noise mitigation measures recommended by the Assessment could be adequately secured by the imposition of a suitably worded planning condition, a conclusion shared by the Council's Public Protection Officer.

Lighting effects

75. The scheme would include lighting. This would be necessary to support the CCTV security system as the facility would be largely unmanned. The proposed lighting would be pole-mounted and support a motion sensing security system. Limited details have been submitted but such lighting would need shrouded lamps to restrict upward light spill and minimise disturbance to local wildlife and light pollution. Due to its distance from the nearest residential properties, the BESS would not have an adverse impact on the living conditions of nearby occupiers with respect to light pollution. Full details of lighting could be required by condition.

Wildlife effects

76. The site is in arable use, with hedgerow and trees within, and enclosing, the site presenting habitat value. The nearest statutorily designated site is the River Blythe SSSI and the non-designated Grand Union Canal, a local wildlife site, neither of these sites would be adversely affected by the proposal. The Appellant's Ecological Assessment¹¹ identifies that a phase 1 habitat survey and several protected species surveys were undertaken. Habitat creation has been proposed to assist in offsetting the limited loss to trees and hedgerows that would result from the proposal.
77. The site was found to have potential roosting habitat in trees and a foraging route through local hedgerows for bats and birds, a sensitive lighting scheme would be required to protect this foraging route for bats. The site was also found to be suitable to provide habitat for Hedgehog, Polecat and Brown Hare. Also, the adjacent canal was considered suitable to provide habitat for otters. These habitats have been deemed to be of local importance. Mitigation measures, described within section 6 of the Assessment, have been proposed to minimise the risk of harm to protected species.
78. Overall, the site was found to have limited ecological value, and the proposed development was not expected to demonstrably affect local wildlife, a conclusion that I find to be robust based on the surveys undertaken. The mitigation measures would include appropriate mitigation for the limited loss of habitat identified. Accordingly, the proposal would not materially harm the ecological habitat on site. The proposed mitigation can be adequately secured by a condition requiring the submission and agreement of a Landscape and Ecology Management Plan.
79. Also, concerns raised by interested parties with respect to construction disturbance to local wildlife and the canal's wildlife corridor could be adequately managed through the imposition of a Construction and Environmental Management Plan.

¹¹ Ecological Appraisal, aspect ecology, September 2023

Fire and health concerns

80. Interested parties have raised concerns that the facility may be vulnerable to fire, providing reference to fires that have occurred at other BESS sites. The site is some distance from the nearest residential property and therefore the risk of a fire effecting neighbouring residential areas would be minimal. Furthermore, there is no compelling evidence to demonstrate that the facility would be hazardous or incompatible with its location within the open countryside. In the unlikely event of a fire, the facility would be readily accessible by a fire tender, and West Midlands Fire Service has raised no concerns in this regard. As such, I see no clear reason in the evidence to illustrate why the facility would be especially vulnerable to the risk of fire or how any fire would result in risk to human health.
81. Also, concerns have been raised that the proposed BESS could affect the health of local residents through the chemicals used in the facility. However, there is no clear evidence that the facility would contain chemicals at a level that could be hazardous to human health or that the proposal would result in harm to the local population in this manner.

Flooding and drainage

82. The Lead Local Flood Authority, whilst not objecting to the scheme raised questions in its response with regard to infiltration testing, the permeability of the scheme and consent from the Canal and River Trust for discharge into the canal. The site is within flood zone 1 and is therefore the least likely land to flood. The sustainable drainage system, as proposed within the Flood Risk Assessment and Drainage Strategy¹², originally proposed infiltration for the northern parcel, via an attenuation basin, into underlying soils.
83. The revised drainage scheme and addendum to the drainage strategy, following infiltration testing, demonstrates that soakaways would not be feasible. As such, the drainage strategy now seeks to drain both the northern parcel (via the attenuation basin) and southern parcel (via attenuation tanks) into the canal. This is based on the discovered shallow groundwater and impermeable ground conditions. The revised drainage plan shows that each compound area would include permeable and impermeable areas to manage drainage. Accordingly, off-site flow rates would be regulated, preventing off-site flooding.
84. Furthermore, the Canal and River Trust (CRT) notes that the proposal shows an intention to drain the site into the canal. Any discharge into the canal would require the Trust's prior consent. Correspondence with CRT at appendix C, of the appellant's Statement of Case, demonstrate that such an agreement would be unlikely to be withheld. Accordingly, a final surface water drainage scheme could be secured by condition for these details.
85. Interested parties have raised concerns that the proposed facility may result in polluted battery or fire extinguishing related chemical compounds being drained into the canal and River Blythe. However, nothing in the evidence indicates that the proposal would result in contaminants being leached into the waterways. An outfall regulator could include a shut off valve, if deemed necessary by the Council, to manage contaminated water during a fire event. Most equipment would be housed within containers and the drainage system would capture runoff in

¹² Flood Risk Assessment and Drainage Strategy, by ADC Infrastructure, September 2023

infiltration trenches leading to both the attenuation basin and tanks. Therefore, the scheme would not result in adverse flooding or drainage impacts.

86. Furthermore, an interested party notes that Henwood Lane experiences some surface water runoff from the southern field being at higher level. Nonetheless, there is no indication that this existing issue would be exacerbated by the proposal which seeks to capture runoff from parts of the land subject to development and capture and manage run-off in a considered manner.

Parking during construction

87. Concerns expressed by interested parties, with respect to parking demand during construction, could be adequately addressed through a condition to detail on-site parking provision through the Construction Traffic Management Plan.

Whether there would be Very Special Circumstances

88. Paragraphs 153, 154 and 155 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
89. The appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have concluded that the scheme would result in moderate harm to the openness of the Green Belt and would result in encroachment. Paragraph 153 of the Framework requires substantial weight to be attributed to any harm to the Green Belt.
90. The proposal would also result in minor adverse landscape harm, minor adverse visual effects from all viewpoints other than for users of the canal towpath and canal causing only moderate-minor adverse effects that would be localised and cause no conflict with the development plan. Nonetheless, the proposal would result in the temporary loss of BMV agricultural land causing modest conflict with the development plan. The limited harm identified to the heritage assets would be outweighed by the public benefits of the proposal. However, for the purpose of my overall planning balance this harm contributes to the adverse effects of the proposal.
91. On the other hand, the other matters identified in opposition to the proposal raise issues that either result in no harm or raise technical matters that could be adequately addressed through the imposition of appropriate conditions to negate the harm.
92. The Framework identifies that many renewable energy projects in the Green Belt will comprise inappropriate development. In such cases, developers will need to demonstrate very special circumstances which could include the wider environmental benefits associated with the increased production of energy from renewable sources. Whilst this lends support for renewable projects in the Green Belt it does not confer an automatic approval of such schemes, where the effects of such development must take into account a broad range of issues in mind of the general presumption to respect the intrinsic character and beauty of the countryside as sought by the Framework. In such circumstances the effects of

such development must bear in mind the general presumption against inappropriate development and the resultant substantial harm conveyed to the Green Belt by this.

93. Nonetheless, both national and development plan policies recognise the importance of the provision of renewable energy projects. In minimising environmental effects, the proposal would comply with the Council's policies with respect to renewable energy.
94. The proposed BESS would support the ongoing shift of power generation to renewable energy and help combat climate change. The surrounding landscape also includes the existing pylons. These are viewed as an existing intervention of electrical infrastructure within the landscape and these provide an important connection point to the Grid. The natural and infrastructural features within the site enable the area to accommodate a degree of change, and the site is relatively well screened causing only moderate-minor harm to the character and appearance of the area.
95. The proposed BESS would convey substantial public benefits that weigh in favour of the proposal. These benefits are recognised by LP policy P9 stating that the Council will take account of national and local targets for reducing greenhouse gas emissions and increase generation of energy from renewable and low carbon sources.
96. Also, these objectives are sought in guidance and national policy in accordance with the Climate Change Act of 2008 (amended 2019), seeking to achieve net zero by 2050. Furthermore, there is also clear support, in Section 14 of the Framework, to increase the use and supply of renewable and low-cost energy and to maximise the potential for suitable such development. The delivery of suitable renewable energy projects, and those that would support them, is fundamental to facilitate the country's transition to a low carbon future in a changing climate. This attracts significant weight in favour of the proposal.
97. Also, the BESS requires a transmission station that has a connection capacity to both export and import the requisite amount of electrical energy. Suitable such facilities are limited within the UK. Consequently, this requirement places a locational restriction on site selection that severely limits the number of appropriate sites. As part of the appellant's site selection process, and although one is not required by policy to be undertaken, the appellant illustrates it has secured a grid connection, via the Copt Heath substation where network capacity exists. The benefits of a connection agreement also weigh significantly in favour of the scheme. Therefore, it has been demonstrated that a rational approach was taken to site selection lending further support for the selected site. Further benefits of the proposal relate to the provision of biodiversity net gain, to which I also apply significant weight and socio-economic benefits to which I attribute further, albeit limited, positive weight.
98. Accordingly, the benefits identified attract very significant weight in favour of the scheme. These are of sufficient magnitude to outweigh the substantial harm found to the Green Belt. In this context, the harm to the Green Belt would be clearly outweighed by the other considerations identified and therefore the Very Special Circumstances necessary to justify the development exist. Accordingly, the proposal would satisfy the national Green Belt policies I have already outlined.

Conditions

99. I have considered the use of conditions in line with the guidance set out in the PPG. I shall take into consideration the conditions within the Council's Statement of Case and impose most of these with some amendments and adjustments for clarity. I have imposed the standard conditions with respect to timeframes and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2]. Also, a condition would be necessary to grant only a temporary consent to manage the overall impact of the development on the openness of the Green Belt. This has been set at 45 years to enable time, within the forty-year operational period, for construction and decommissioning to take place [3].
100. It is necessary for conditions to ensure that the external finishes of the plant and machinery adequately blends in with the verdant character of the site's surroundings [9]. A condition is required for the submission of a Construction Traffic Management Plan to ensure, among other matters, that during construction the use of Henwood Lane takes place in a safe manner [5]. Also, conditions are required to secure the details of a surface water drainage strategy and a discharge agreement to be in place with CRT prior to development commencing in the interests of the sustainable drainage of the site [11 and 17]
101. It would be necessary for details to be submitted setting out a Construction and Environmental Management Plan, Landscape and Ecological Management Plan, an Arboricultural Method Statement (including Tree Protection Plan), an updated badger survey, details of a lighting scheme and to comply with the mitigation measures outlined in the submitted badger survey in the interests of the protection of protected species, for ecological interests and to comply with LP policy P10 [4, 6, 7, 8, 10 and 15]. Furthermore, conditions are required to ensure that a suitable landscape planting scheme is submitted, implemented and that failed planting is replaced in the interests of the character and appearance of the area and to enhance the biological interests of the site [12, 13 and 14].
102. A condition is also necessary to require the proposal to comply with the recommendations of the Noise Assessment in the interests of the living conditions of residents [16]. A condition is necessary to require the details of the gates to be used at the vehicular access points as the appellant indicates the previously proposed 2.4 gates are proposed to be replaced by 1.2m wooden gates. As wooden gates would be a favoured approach in this location these details, which do not appear to be within the submission, should be sought by condition [18]. The northern part of the site and beyond has been found to be part of a sewage farm. As such a condition would be required for details of contamination and investigation [19]
103. The Council has suggested that an archaeology related condition would be required in accordance with the requirements of LP policy P16. However, the officer report states that the archaeology officer provided no comments. I also note that the appellant's heritage assessment did not identify that the site was subject to any known archaeological remains. As such, it is not apparent that this condition would be necessary or required.

Conclusion

104. For the above reasons, the appeal is allowed, and planning permission is granted subject to the conditions within the attached schedule.

B Plenty

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing no's:
 - ARL016-D-PL-EXT-002 R02 – General Arrangement (1:750)
 - 1002 P2 - Site Location
 - 1003 P3 - Cable Arrangement
 - 1004 P1 - CCTV/Lighting Layout
 - 1600 P3 - Site Sections Switchyard
 - 1601 P2 - Elevation from DNO/DNO Control Room
 - 1602 P2 - Elevation Private Switch Room
 - 1603 P2 - Elevation Battery Switch Room
 - 1604 P2 - Elevation Auxiliary Transformer
 - 1605 P2 - Elevation Battery Control Room
 - 1606 P1 - Elevation Battery Inverter
 - 1607 P1 - Elevation Battery Cabinet
 - 1608 P1 - Elevation 2.4m Palisade Fence
 - 1609 P1 - Elevation 2.4m palisade gate
 - 1610 P2 - Elevation 3m Living Acoustic Fence
 - 1611 P2 - Elevation 3m Living Acoustic Gate
 - 1700 P2 - Site Elevation Switchyard
 - 1701 P2 - Site Elevation Battery Compound
 - 1702 P2 - Site Section Battery Compound
 - ADC3/08-DR-Z01-0050-P09 - Indicative Surface Water Drainage Strategy Layout
- 3) The use of proposed development shall cease on or before 45 years from the above decision date, all buildings, equipment and infrastructure removed, and the land shall be restored in accordance with a decommissioning scheme that must be submitted to and approved in writing by the Local Planning Authority at least 12 months before decommissioning takes place. The decommissioning scheme shall include a programme for the timing and

- a scheme of work which shall be fully implemented in accordance with the approved details. All buildings, structures and associated infrastructure must be removed within six months of the proposed development ceasing, and the land restored in accordance with the approved details.
- 4) Prior to the commencement of development, a detailed Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved CEMP.
 - 5) Prior to the commencement of development, a detailed Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.
 - 6) Prior to the commencement of development, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include short (1-5years), medium (5-15 years) and long term (15-30 years) design objectives, management actions, responsibilities, future monitoring and maintenance schedules for all landscape, habitat mitigation and compensation works. The LEMP shall be carried out as approved unless otherwise agreed in writing by the Local Planning Authority.
 - 7) Prior to commencement of development, an Arboricultural Method Statement, providing comprehensive details of tree protection measures to the requirements of BS5837, including a dimensioned tree protection plan shall be submitted for approved in writing by the Local Planning Authority. Subsequently, all measures within the approve method statement and Tree Protection Plan shall be adhered to until all construction related activity has been completed.
 - 8) Prior to the commencement of development an updated badger survey shall be submitted for approval by the Local Planning Authority. Any recommendations following the findings of this survey shall be implemented in accordance with the approved scheme.
 - 9) Prior to installation of the structures, including battery containers, storage and utility containers, generators and transformers and fencing, details of the external finishing colour shall be agreed in writing by the Local Planning Authority. The structures and fencing shall be retained and maintained in the agreed finish for the lifetime of the development.
 - 10) In the event that lighting is proposed, full details of all external light fittings and external light columns shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. In discharging this condition, the Local Planning Authority expects lighting to be restricted at the periphery of the site and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats and other nocturnal species.
 - 11) No above-ground work shall commence until such a time as a scheme to manage the surface water runoff from the development has been submitted to and approved in writing by the Lead Local Flood Authority in conjunction with the Local Planning Authority, with no use of the development until the

scheme is operational. The submitted details shall include, a) Drawings showing overall site concept design principles, b) Site layout plan, incorporating SuDS drainage design, site ground levels, finished floor levels, any integration with landscaping, earthworks or other features, c) Surface Water Drainage Design including:

- o Confirmation of the lifetime of the development
- o Design storm period and intensity (1 in 1, 1 in 30 & 1 in 100 year + allowance for climate change see EA advice Flood risk assessments: climate change allowances'),
- o Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates in accordance with BRE365 methodology;
- o Confirmation of discharge rates and volumes (both pre and post development)
- o Confirmation of proposed discharge location, including the network downstream of the Kenilworth Greenway
- o Innovative and Multi-Functional SuDS Design that makes good use of the site space, supported by robust calculations and demonstrating full compliance with SMBC Policy P11 and DEFRA's Non-statutory technical standards for sustainable drainage systems to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus climate change critical event storm.
- o Engineering details for all surface water drainage features
- o Temporary storage facilities, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of finished floor levels in AOD;
- o Details of water quality controls, where applicable. For example, demonstration that the final design provides appropriate treatment for water leaving the site

The submitted details shall also include: d) Surface Water Drainage adoption and maintenance strategy, e) On and off site extreme flood flow routing and proposed resilience measures that ensure the buildings and infrastructure are safe from flooding and f) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant). The approved scheme shall be implemented, maintained and managed in accordance with the approved details.

- 12) The development hereby approved shall not import or export electricity until full details of all soft landscaping and proposed tree planting and the proposed times of planting have been approved in writing by the Local Planning Authority and all tree planting shall be carried out in accordance with those details and at those times.
- 13) All hard and soft landscape works shall be carried out in accordance with the approved details prior to the import or export of electricity. If within a period of

5 years from the date of planting of any tree, that tree or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place within the next planting season (October-March), unless the Local Planning Authority gives its written consent to any variation.

- 14) Any tree, hedge or shrub scheduled for retention which is lost for any reason during development works, shall be replaced with a tree, hedge or shrub of a size and species to be agreed in writing with the Local Planning Authority and planted during the first planting season after its loss.
- 15) The development shall be undertaken in accordance with the mitigation measures set out within the Confidential Appendix Relating to Badgers dated August 2023.
- 16) Prior to the first import or export of electricity, the noise mitigation measures identified in section 5.1.4 of the submitted Noise Impact Assessment dated 17th October 2023, shall be fully implemented and shall be retained for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.
- 17) No above-ground works shall commence until details of the connection to discharge surface water into the Grand Union Canal has been approved by the Canal and River Trust. This should include: Confirmation of discharge rates and volumes (both pre and post development), Confirmation of proposed discharge location(s), Engineering details for all surface water drainage features, including any changes to the canal banks, Details of any water quality and pollution prevention measures required, where applicable, On and off site extreme flood flow routing and proposed resilience measures that ensure the buildings and infrastructure are safe from flooding, Surface water drainage adoption and maintenance strategy and Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant). The scheme shall be implemented, maintained and managed in accordance with the approved details.
- 18) Notwithstanding the details of gates approved elsewhere within the proposal, the details of the proposed wooden gates, to be used at the two access points alongside Henwood Lane, shall be submitted to and approved by the local planning authority prior to the installation of BESS containers within the site. The approved details shall be fully implemented in accordance with the approved scheme prior to the first import or export of electricity from the site.
- 19) Development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts (1) to (4) below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part (4) has been complied with in relation to that contamination.

(1) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: (a) human health, (b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, (c) adjoining land, (d) groundwaters and surface waters, (e) ecological systems, (f) archaeological sites and ancient monuments; and (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

(2) Submission of Remediation Scheme

Where necessary following (1) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(3) Implementation of Approved Remediation Scheme

Any approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(4) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

(5) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of any proposed remediation over a period of to be agreed, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority before the development hereby approved is first used or occupied. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.

End of Conditions