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# **Rebuttal (Planning) The Proof of Evidence of Mark Reynolds on behalf of South Oxfordshire District Council**

**Appeal against the refusal of  
planning application  
P24/S1498/FUL**

**Culham Storage Limited**

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MAY 2025

**Planning Inspectorate Ref:  
APP/Q3115/W24/3358132**



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# 1 Introduction

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- 1.1 This rebuttal to the planning evidence provided by Mark Reynolds on behalf of South Oxfordshire District Council is a focused document. It is intended to deal only with identified aspects which are considered to require specific rebuttal. The fact that a matter is not mentioned does not mean that it is agreed.

## 2 Green Belt/Grey Belt

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### Contribution to purposes for including land within the Green Belt

- 2.1 The Appellant and SODC are in agreement that the Appeal Site makes little or no contribution to purposes 1, 2, 4 and 5.
- 2.2 The Appellant does not agree with SODC in relation to the contribution that the Appeal Site makes to purpose 3. Paragraph 5.11 of Mr Reynolds' evidence needs to be treated with a degree of caution. He states that the Oxford Green Belt study (2024) concludes that *"the site currently plays a 'high' role in contributing to this purpose"* when the study does not in fact say that. Rather, it concludes that parcel CH2 as a whole makes a high contribution to purpose 3. For the reasons I set out at paragraph 2.32 of my proof the Appeal Site is located in the least open and sensitive area of CH2, with the strongest countryside features found to the north of the parcel.
- 2.3 The Appellant does acknowledge however that the Appeal Scheme would result in moderate harm to purpose 3 by virtue of physical encroachment into the countryside. This is moderated by the limited extent of such encroachment and the localised nature of the harm against the Green Belt boundary. I consider Mr. Reynolds' position that purpose 3 would be 'seriously undermined' as claimed by SODC to be an overstatement.
- 2.4 By way of context, I consider this to be an important but relatively minor point of disagreement overall because both parties do agree that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan (as acknowledged at paragraph 5.21 of Mr Reynolds' evidence).

### Grey Belt

- 2.5 Both parties agree that the first limb of the grey belt definition contained in Annex 2 of the NPPF is met, as the Appeal Scheme does not contribute strongly to any of purposes 1, 2 or 4 of the Green Belt.
- 2.6 I disagree, however, with Mr Reynolds' conclusion in relation to the second part of the grey belt definition i.e. that for the purposes of determining whether land is grey belt it is: *"sufficient to state at this point that I find the application of policies to protect the designated heritage asset would provide a strong reason for refusing or restricting the proposed development"*.

- 2.7 Although not explicit, I have assumed that Mr Reynolds is not suggesting that the mere relevance of a heritage policy in and of itself would provide a ‘strong reason’. That decision has to be based on a qualitative assessment. This is confirmed in the PPG (Paragraph: 006 Reference ID: 64-006-20250225) which notes that where an area *“would be covered by or affect other designations in footnote 7...it may only be possible to provisionally identify such land as grey belt in advance of more detailed specific proposals”*. In other words once you have made that qualitative judgement one can define an area as grey belt.
- 2.8 If the heritage balance is passed then it would be illogical to hold that there is a ‘strong reason for refusing or restricting’ the proposed development.
- 2.9 I recognise that Mr Reynolds does later address the balance required by paragraph 215 in section 6 of his evidence and correctly applies significant weight to the substantial contribution of the Appeal Scheme to meeting the need for battery storage capacity. Mr Reynolds also recognises other, but not all, of the benefits of the Appeal Scheme that I list in table 7.1 of my evidence (though with slightly different interpretations on weighting).
- 2.10 Whilst Mr Reynolds ultimately finds that the less than substantial harm is not outweighed by the benefits (which I respectfully disagree with) this represents one factor in the overall planning balance. It very clearly in my view does not represent a ‘strong reason’ for refusing or restricting the proposed development.
- 2.11 To put my position in further context, paragraph 215 of the NPPF is not a “negatively worded” policy. It simply requires that any less than substantial harm should be weighed against the public benefits of the proposal. It, intentionally, does not go as far as paragraph 214 in relation to instances of substantial harm - where the NPPF directs decision makers to refuse consent unless the harm would be necessary to achieve substantial public benefits.
- 2.12 The interpretation of this point has important consequences for the Council’s case. If the Inspector agrees with my judgement the site will be found to represent grey belt and as recognised by Mr Reynolds (at paragraph 5.2 of his evidence), the development would not comprise inappropriate development in the Green Belt. This would make the case for the grant of planning permission irresistible.

### 3 Best and Most Versatile Agricultural Land

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- 3.1 Mr. Reynolds' analysis under reason for refusal 4 (from paragraph 5.50) misinterprets NPPF policy. Paragraph 187 does require planning decisions to contribute to the natural and local environment by *inter alia* recognising the economic and other benefits of the best and most versatile agricultural land. However, Paragraph 188 only deals with plan making. It is not relevant to decision taking. Nor is the May 2024 WMS applicable because this is not a solar scheme. The point at paragraph 5.51 that solar and BESS are frequently collocated is not helpful. They are different types of scheme with different characteristics in land use terms.
- 3.2 As a point of principle, I do not agree that Policy DES7 "aligns closely" with national policy as stated at para 5.52. Nothing in the NPPF specifically requires any preference for the use of poorer quality land over higher value land in decision taking for a BESS scheme.
- 3.3 It is, however, necessary to address the development plan policy and helpfully in Appeal reference APP/Q3115/W/24/3350890 (land at Burcot Farm, Burcot, Abingdon) an Inspector has very recently provided guidance as follows:
- *[34] Policy DES7 seeks to make effective use of land and protect natural resources, with one of the objectives of the policy being to tackle climate change. In producing renewable energy, the proposal would clearly help to tackle climate change....*
  - *[35] Whilst the wording of clause vii) of the policy requires that the use of BMV land needs to be demonstrated to be the most sustainable choice from reasonable alternatives it does not specifically require consideration of alternative sites. It goes on to say that areas of poorer quality land are to be used in preference to that of higher quality land. This wording is similar to that used in the PPG. A recent High Court judgement... concluded that this wording does not mandate the consideration of alternative sites and still less does it require a sequential test to be adopted*
  - *[36]... DES7 requires the consideration of reasonable alternatives, not alternative sites, and I consider it does not require a sequential approach*
  - *[37].... Moreover, unlike the Framework which clearly identifies in which situations a sequential test is necessary and sets out a methodology for doing this, neither DES7 or its supporting text makes any reference to the need for a sequential approach or how to carry one out. In relation to the use of BMV land the Framework requires the economic and other benefits to be considered, not a sequential approach. Furthermore, neither EN-1 or EN-3 require a sequential approach.*
  - *[39] In addition, the appellant argued that in terms of DES7 the proposal is the most sustainable choice from reasonable alternatives. The alternatives being: to not develop the site and not use the grid connection where starting again on a new site would require a new grid connection which currently involves a 10 year wait; to develop the wider 93ha site that would use more Grade 2 agricultural land... Given the urgent need for Renewable Energy set out in various government publications they argue that the appeal scheme represents the most sustainable choice from reasonable alternatives..."*

- 3.4 In summary, the submission that the Appellant is required to find and exhaust all alternative sites that are not BMV is not accepted. Paragraph 187 of the NPPF requires the economic and other benefits of the best and most versatile agricultural land to be recognised. The temporary loss of BMV in this case has been accorded proportionate weight and is a matter for the planning balance as has been recognised in the Appellant's case.







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