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## Appeal Decision

Site visit made on 2 March 2026

by **Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 April 2026

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### Appeal Ref: 6002115

#### The Homestead, Melton Road, Langham, Rutland LE15 7EJ

- 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 James Clifford against the decision of Rutland County Council.
  - The application Ref is 2025/0251/FUL.
  - The development proposed is described as 'Erection of 0.07476MWp generating solar array with associated battery cabling and equipment'.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 0.07476MWp generating solar array with associated battery cabling and equipment at The Homestead, Melton Road, Langham, Rutland LE15 7EJ, in accordance with the terms of the application, Ref: 2025/0251/FUL subject to the conditions set out in the attached schedule.

### Application for Costs

2. An application for an award of costs was made by James Clifford against Rutland County Council. This application is the subject of a separate Decision.

### Main Issue

3. The main issue in this appeal is whether the proposal makes adequate provision for biodiversity net gain.

### Reasons

4. Under mandatory biodiversity net gain (BNG) legislation, developers must deliver 10% BNG, as measured by the statutory biodiversity metric. To this end the appellant provided a Biodiversity Net Gain Report (the BNG Report) with the application and the necessary metric calculations. This concluded that BNG could be achieved. The appellant's submissions were reviewed by the Council's Ecologist. An initial holding objection was altered to a recommendation of 'no objection'. The Council's Ecologist confirms that the details clearly demonstrate a net gain of more than 10%.
5. The Council are of the view that a planning obligation is required to secure a monitoring contribution because 'significant' enhancements are proposed and these would need to be monitored by the Council. There is some ambiguity here as the Council's Ecologist, in their proforma response, said 'no' to significant on-site enhancement being required (when using the current government definition of

- significant), but then also said ‘yes’ under additional information to significant on-site BNG needing to be secured and monitored for 30 years.
6. Furthermore, the Council in its appeal submissions have set out the criteria it applies for identifying significant enhancements but has not explained how the scheme breaches the thresholds.
  7. Nevertheless, the appellant does not appear to dispute the Council’s conclusion that the proposal would require ‘significant’ on-site enhancements. The key point in dispute, therefore, is whether a planning obligation is required to secure monitoring of the significant enhancement. The Planning Practice Guide<sup>1</sup> (PPG) explains that local planning authorities can charge a fee through planning obligations to cover the cost of monitoring and reporting on the delivery of that planning obligation, although this needs to be justified<sup>2</sup>. The Council has a joint policy<sup>3</sup> that sets out its approach and the fees.
  8. However, the BNG chapter of the PPG also explicitly confirms that a planning condition(s) can be used to secure significant onsite habitat enhancements as well as monitoring and reporting arrangements<sup>4</sup>. This needs to be considered in the context of Paragraph 56 of the National Planning Policy Framework, which states that planning obligations should only be used where it is not possible to address unacceptable impacts through planning conditions. Therefore, it would seem to be a matter of planning judgment whether, in the circumstances of any given case, the more detailed and robust approach of a planning obligation is necessary instead of a condition(s). This judgment is likely to be influenced by the value of the habitat, the extent of the enhancement and the complexity involved in the delivery, maintenance and monitoring of it. The overall risk in other words.
  9. In this instance, 0.052ha of ‘existing modified grassland’ in ‘poor condition’ would be improved to create ‘other neutral grassland’ in ‘good condition’. This would be achieved by sowing a defined area detailed on a plan in the BNG Report with a suitable species mix. The area would then be managed for at least 30 years by cutting the grass at different sward heights on rotation and removing vegetation on a seasonal basis.
  10. As a matter of judgment, I do not consider the outlined onsite enhancement would be especially extensive or complex. The detail provided is sufficient to demonstrate how the BNG would be provided, managed and monitored and that the standard condition would likely be discharged. Indeed, the proposed on-site enhancement measures were reasonably described by the appellant’s Ecologist as ‘low risk’ and consequently they recommended that a Habitat Management and Monitoring Plan (HMMP) be secured through a condition. There was no mention of a planning obligation being necessary.
  11. In reviewing this, the Council’s Ecologist did not make any reference to a planning obligation in their comments either. Instead, they also recommended the imposition of a condition requiring a HMMP which would be imposed in addition to the standard condition<sup>5</sup>. Accordingly, there seems to be agreement between the Ecologists that BNG could be secured and monitored by condition in this instance.

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<sup>1</sup> Paragraph: 028 Reference ID: 74-028-20240214

<sup>2</sup> Paragraph: 027 Reference ID: 74-027-20240214

<sup>3</sup> *Section 106 Charging Policy and Schedule: Off site and significant on site Biodiversity Net Gain Monitoring*

<sup>4</sup> Paragraph: 027 Reference ID: 74-027-20240214

<sup>5</sup> See Schedule 7A(13) of the Town and Country Planning Act 1990 inserted by Schedule 14 of the Environment Act 2021

Indeed, the appellant has provided a form of words suggested by the Planning Advisory Service for such a condition. This could result in the appellant having to provide regular monitoring reports over the 30-year period.

12. In conclusion, the proposal can deliver BNG and the indicators are that it can be secured and monitored adequately through the imposition of a condition. A planning obligation would be unnecessary in this instance. Consequently, the scheme at this stage adheres to the expectations of the Environment Act and the National Planning Policy Framework, which require measurable gains for biodiversity.

### **Conditions**

13. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. In addition to a standard commencement condition, it is necessary to impose a drawings condition in the interests of precision. In the interests of biodiversity, it is necessary to secure the mitigation measures set out in the biodiversity report. To assist in securing and monitoring BNG it is necessary to require a HMMP. To safeguard living conditions, it is necessary to limit noise levels.
14. The proposal would also be subject to the standard condition in Schedule 7A to the Town and Country Planning Act 1990.

### **Conclusion**

15. For the reasons give above, the appeal is allowed.

*Graham Chamberlain*  
INSPECTOR

### Schedule of Conditions

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers:
  - 1:2500 Scale Location Plan,
  - SPB001 Block Plan,
  - PVL001 Elevations,
  - PS001 Side Elevation,
  - OE135-IL001 Invertor Layout Plan,
  - OE135- TD001 Trenching Detail,
  - OE135-TL001 Trenching Layout and
  - PV VERTEX S+NEG9R.28 425-450W Solar Panel Data Sheet.
3. The rating level of noise emitted from the site shall not exceed 35dB LAeq, 1 hour. The noise levels should be determined at the nearest noise sensitive premises. The measurements and assessment should be made according to BS:4142:2014.
4. Should the use of the solar array and exportation of electricity cease, the panels and associated equipment and infrastructure shall be removed from the site in accordance with a schemed and timetable that shall be submitted to the local planning authority for approved in writing within three months of the exportation of electricity ceasing.
5. The development hereby approved shall be implemented in strict accordance with the measures in Sections 6 and 7 of the Ecological Impact Assessment by Ethos Environmental Planning.
6. The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan has been submitted to, and approved in writing by, the local planning authority and including:
  - a) a non-technical summary;
  - b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;

c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;

d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and

e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority.

Notice in writing shall be given to the Council when the HMMP works have started.

No development shall take place until:

(a) the habitat creation and enhancement works set out in the approved HMMP have been completed; and

(b) a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the Local Planning Authority.

The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

**End of schedule**