



Representation on behalf of RWE Renewables UK

Rutland County Council Pre-submission
draft Local Plan Consultation (Regulation 19)

December 2024

Prepared for:
RWE Renewables UK Solar and Storage Ltd

Prepared by:
Elliot Dommett

Project Number:
333100635

Registered Office: Buckingham Court Kingsmead
Business Park, London Road, High Wycombe,
Buckinghamshire, HP11 1JU
Office Address: Lakeside House, Blackbrook Business
Park, Blackbrook Park Avenue, TA1 2PX
T: 01823 218940 E: Taunton.uk@stantec.com

Representation on behalf of RWE Renewables UK Solar and Storage Ltd

Rev	Description	Author	Date	Reviewed	Date	Approved	Date
AA	Draft issue to client	Elliot Domett	25/11/24	Julie Barrow	25/11/24	James Finn	25/11/24
BB	Submission	Elliot Domett	02/12/24	Julie Barrow	02/12/24	James Finn	02/12/24



Representation on behalf of RWE Renewables UK Solar and Storage Ltd

The conclusions in the Report titled **Representation on behalf of RWE Renewables UK** are Stantec's professional opinion, as of the time of the Report, and concerning the scope described in the Report. The opinions in the document are based on conditions and information existing at the time the scope of work was conducted and do not take into account any subsequent changes. The Report relates solely to the specific project for which Stantec was retained and the stated purpose for which the Report was prepared. The Report is not to be used or relied on for any variation or extension of the project, or for any other project or purpose, and any unauthorized use or reliance is at the recipient's own risk.

Stantec has assumed all information received from Client (the "Client") and third parties in the preparation of the Report to be correct. While Stantec has exercised a customary level of judgment or due diligence in the use of such information, Stantec assumes no responsibility for the consequences of any error or omission contained therein.

This Report is intended solely for use by the Client in accordance with Stantec's contract with the Client. While the Report may be provided by the Client to applicable authorities having jurisdiction and to other third parties in connection with the project, Stantec disclaims any legal duty based upon warranty, reliance or any other theory to any third party, and will not be liable to such third party for any damages or losses of any kind that may result.



Contents

- 1 Introduction 5**
 - 1.1 This representation 5
 - 1.2 RWE 5
- 2 Chapter 3 – Vision and Objectives 6**
 - 2.1 Vision and Strategic Objectives 6
- 3 Chapter 4 – Climate Change 7**
 - 3.1 Draft Policy CC8 – Renewable Energy 7
 - 3.2 Draft Policy CC9 Protecting Renewable Energy Infrastructure 10
 - 3.3 Draft Policy CC4 – Net zero carbon (operational) 10
- 4 Chapter 9 – Environment 11**
 - 4.1 Draft Policy EN6 – Protecting agricultural land 11
- 5 Closing remarks 12**
 - 5.1 Summary 12



1 Introduction

1.1 This representation

- 1.1.1 Stantec UK Ltd ('Stantec') is instructed by RWE Renewables UK Solar and Storage Ltd ('RWE') to provide comments to Rutland County Council ('the Council') during the current Regulation 19 (Pre-Submission) Consultation on the Draft Rutland Local Plan ('the Draft Plan'), which will direct and coordinate sustainable development across the authority area over the period 2021-2041.
- 1.1.2 These comments are provided to support the Council in achieving a Local Plan which is both legally compliant and meets the tests of soundness contained within the National Planning Policy Framework ('NPPF'). Additionally, that it is representative of the views of organisations which carry out business in the area so far as is reasonably practicable.
- 1.1.3 RWE is pleased to see that the Council has progressed the Draft Plan within a relatively short timeframe, especially given the fluctuating legislative and policy context of the last few years. RWE is keen to support the Council with achieving its programme, which includes examination in 2025.

1.2 RWE

- 1.2.1 RWE (formerly JBM Solar Projects 10 Ltd) is one of the preeminent developers of utility scale solar and battery storage schemes in the UK, producing 15% of the UK's energy, selling to National Grid. It is progressing a mature global project pipeline with a combined capacity of around 6.7 gigawatts ('GW'), split into 4.4GW of solar and 2.3GW of battery storage, and aims to commission on average 450MW of new solar capacity per year. This includes an application within the administrative area of the Council (2024/1220/MAF) for 49.9MW which was validated on 14 November 2024.
- 1.2.2 RWE is also determined to go above minimum requirements, including comprehensive community engagement, achieving a minimum of 50% biodiversity net gain for all solar projects, and working with National Grid to achieve connection as soon as possible.



2 Chapter 3 – Vision and Objectives

2.1 Vision and Strategic Objectives

- 2.1.1 RWE is strongly supportive of the proposed vision. Particularly the fact that addressing the impacts of climate change and the need to become carbon net zero are central to it.
- 2.1.2 Climate change is a global threat that has evolved from the substantial and constant use of fossil fuels. As such, greenhouse gases in the atmosphere have heavily increased over time, increasing the likelihood of catastrophic events such as devastating and frequent storms, sea level rise, habitat degradation, species extinction and aggressive decline in the health and wellbeing of populations. It is imperative to human and planetary health that mitigation for these impacts is integrated as far as possible in all levels of policy and practice. The NPPF and National Planning Policy Statements already recognise the urgency:
- Paragraph 157 of the NPPF states that the planning system should support the transition to a low carbon future and support renewable and low carbon energy and associated infrastructure.
 - Paragraph 158 of the NPPF states that plans should take a proactive approach to mitigating and adapting to climate change.
 - Paragraph 160 of the NPPF states that plans should consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, to help increase the supply of renewable and low carbon energy.
 - NPS EN-1 reflects the government's commitment to reducing carbon emissions, ensuring energy security and promoting affordability. Recognising the heavy reliance on fossil fuels for households and transportation, NPS EN-1 emphasises the need to decrease dependency on high-carbon fossil fuels and transition to a low-carbon energy mix.
 - NPS EN-1 recognises that meeting energy objectives necessitates the development of large-scale renewable energy infrastructure. Paragraph 3.2.1 outlines that this type of development is required to “ensure our supply of energy always remains secure, reliable, affordable, and consistent with net zero emissions in 2050”.
- 2.1.3 In October 2021, the UK Government published its Net Zero Strategy: Build Back Greener, which in relation to solar development is further reiterated in the 2023 strategy Powering up Britain. The strategy states that the UK has huge potential to decarbonise the power sector and sets out an ambition for a fivefold increase in solar by 2035, up to 70GW, enough to power around 20 million homes. The Climate Change Committee's 'Progress in reducing UK emissions 2023 Report to Parliament' states that while renewable electricity capacity increased in 2022, it was not deployed at the rate required to meet the Government's stretching targets, particularly for solar deployment.
- 2.1.4 Furthermore, the new Labour Government has expressed a commitment to making the UK a 'Clean Energy Superpower' as one of the missions in its manifesto, including as part of this mission, more than tripling solar power to 50GW by 2030.
- 2.1.5 Clearly, the delivery of renewable energy infrastructure, particularly solar, is a priority in national policy and the UK's vision for the future. RWE is therefore very supportive of the Strategic Objectives, which confirm a targeted ambition to promote the delivery of renewable energy infrastructure in Rutland.



3 Chapter 4 – Climate Change

3.1 Draft Policy CC8 – Renewable Energy

- 3.1.1 Draft Policy CC8 broadly reflects and consolidates existing Policies CS20 and SP18 in the adopted Development Plan. Fundamentally, it confirms that the Council will seek to maximise appropriately located renewable energy generation infrastructure in Rutland.
- 3.1.2 It states that proposals will be supported if the individual and cumulative impacts can be made acceptable. It then sets out three tests that have to be met, including, firstly, demonstration that the scale, siting and design is acceptable from a landscape, amenity, biodiversity, geodiversity, flood risk and heritage perspective. Second, that potential impacts on aviation and defence navigation systems / communications are acceptable, and third that impacts on 'sensitive neighbouring uses' including local residents (noise, dust, odour, air quality, traffic) are acceptable.
- 3.1.3 The key difference in policy approach to that set out in the adopted Development Plan is the designation of 'Opportunity Areas for Renewable Energy – Ground Mounted Solar PV' within the Policies Map. Within these areas, 'proposals for ground based solar thermal or photovoltaics and associated infrastructure, including commercial large-scale proposals, are more likely to be supported'. Unless any one of four criteria are triggered.
- 3.1.4 Outside of the Opportunity Areas identified on the Policies Map, applicants will need to provide a clear justification for the suitability of the chosen development site for solar proposals. Applicants should demonstrate that the proposed location meets the criteria used in identifying the opportunity area.
- 3.1.5 Firstly, RWE supports the basis of the policy, that renewable energy schemes will be supported subject to the direct, indirect, individual, and cumulative impacts.
- 3.1.6 RWE also supports the use of a spatial designation to indicate areas of in-principle support for solar energy generation, which provides a degree of certainty to the market and roots the provision of renewable energy infrastructure in the spatial plan for the local authority area. Often this type of area-based designation is reserved for other forms of development and this choice reflects the focus on mitigating the impacts of climate change in the Council's Vision and Strategic Objectives.
- 3.1.7 It is not clear however, what benefit the Opportunity Area designation provides schemes for the following reasons:
- The wording 'more likely to be supported' in relation to schemes within the identified Opportunity Areas is too subjective to provide additional certainty that schemes should be directed to these locations. The value of the area designation should not be to say they are 'more likely' to be accepted, rather it should identify the weight that would be attributed to the location of a scheme within an Opportunity Area. For example, 'significant weight in favour will be given to schemes that are located within an Opportunity Area' or reflecting the wording for proposals on existing buildings, 'a presumption in favour of permission'.
 - A scheme will not benefit from the Opportunity Area designation if the proposed use of any agricultural land is shown to be necessary. This is generally unavoidable for ground mounted solar PV and clearly the majority of the identified Opportunity Areas are agricultural land.
 - Some benefits of a scheme, such as the ability for agricultural production to continue during the operation of the energy generation, or whether it can recommence after the end of life of the energy generation equipment without significant impact on the quality of that agricultural land, would currently result in the proposal **not** benefitting from the Opportunity Area designation.



Representation on behalf of RWE Renewables UK Solar and Storage Ltd

- There is a need to provide a clear justification for the suitability of developments sites for solar proposals where they are not within the identified Opportunity Areas. This implies that for sites within identified Opportunity Areas, applications will not be expected to provide this justification, which would typically be set out in some form of site selection assessment. However, the second bullet requires this approach to demonstrate that the use of agricultural land is necessary.

3.1.8 We consider that the following policy wording would avoid ambiguity and make it clear how both decision makers and applicants should interpret the policy, and benefit from the Opportunity Area designation, which has been identified based on a robust, logical constraints-based approach (which RWE endorses).

“...Proposals for ground based solar thermal or photovoltaics and associated infrastructure, including commercial large-scale proposals, ~~are more likely to be supported~~ **will be given significant weight in favour** where they are within an area identified on the Policies Map or in an adopted Neighbourhood Plan and address all matters in (a) – (c) above, as well as the additional requirements of national planning policy, unless **there is clear and demonstrable significant harm arising or the land is allocated for another purpose in this Local Plan or other statutory based document (such as a Nature Recovery Strategy or a Local Transport Plan), and the proposal is not compatible with such other allocation.**

- ~~▪ there is clear and demonstrable significant harm arising; or~~
- ~~▪ where a proposal involves greenfield land, whether:
 - i. the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
 - ii. the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays; or~~
- ~~▪ the proposal is (following a site-specific soil assessment) to take place on Best and Most Versatile (BMV) agricultural land, the proposal is part of a wider scheme to protect or enhance a carbon sink of such land or unless the agricultural production can continue during the operation of the energy generation or can recommence after the end of life of the energy generation equipment without significant impact on the quality of that agricultural land; or~~

If a proposal for ground based solar thermal or photovoltaics within an Opportunity Area the proposal is (following a site-specific soil assessment) to take place on Best and Most Versatile (BMV) agricultural land:

- **it must be shown that, within the site boundary, poorer quality land has been used in preference to higher quality land and;**
- **the proposal should allow for continued agricultural use where applicable and/or encourage biodiversity improvements around arrays; and**
 - **either the agricultural production can continue during the operation of the energy generation or can recommence after the end of life of the energy generation equipment without significant impact on the quality of that agricultural land; or**
 - **the proposal is part of a wider scheme to protect or enhance a carbon sink of such land.**

Outside of the areas identified on the policies map, applicants will need to provide a clear justification for the suitability of the chosen development site for solar proposals. Applicants should demonstrate that the proposed location meets the criteria used in identifying the opportunity area...”



Representation on behalf of RWE Renewables UK Solar and Storage Ltd

3.1.9 The changes we have proposed above make the benefit of locating ground mounted solar PV development in the Opportunity Areas clear, that:

- there will be greater weight afforded to them;
- they will not be expected to demonstrate why the use of agricultural land is necessary; and
- given that the Opportunity Areas have been developed ruling out predicted Grade 1 and 2 land (amongst other important considerations), proposals inside of Opportunity Areas will not be expected, in the same way that proposals outside of Opportunity Areas will, to provide a clear justification for the suitability of the chosen development site for solar proposals. We anticipate this would take the form of a site selection assessment which sequentially tests potential sites considering, amongst other things, agricultural land classification. The NPPF already provides 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.

3.1.10 Furthermore, the changes allow for greater consistency with Draft Policy EN6, which states that Grade 3 (including 3a) land may be permitted for Solar PV. The tests we have set out above, which were already contained in a different context within the draft policy, would confirm when Grade 3 land may be permitted for Solar PV. The occurrence of any Grade 3a land would, as Draft Policy CC8 is currently worded, result in a scheme losing the benefit of the Opportunity Area designation which we do not anticipate is the intention based on Draft Policy EN6 and the way the Opportunity Areas were defined.

3.1.11 These comments are made to ensure that the Draft Plan contains policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals, as is required of plans by NPPF paragraph 16. This would support a plan which is consistent with national policy, which is a necessary test of soundness.

NPPF Consultation Draft – July 2024

3.1.12 The Draft Plan would currently benefit from the transitional arrangements set out in the Draft version of the NPPF which went to consultation from 30 July 2024 to 24 September 2024 ('Draft NPPF') because the emerging annual housing requirement is within 200 dwellings of the relevant Local Housing Need figure. Should the transitional arrangements change in the published version of the revised NPPF, and they subsequently do not apply to Rutland, the following changes are pertinent to note.

3.1.13 The use of Opportunity Areas for Solar PV development aligns with the new text at Paragraph 161 of the Draft NPPF which states that plans should identify suitable areas for renewable and low carbon energy sources. Additional text at Paragraph 164 of the Draft NPPF also states local planning authorities should support planning applications for all forms of renewable and low carbon development, giving significant weight to the contribution to renewable energy generation and a net zero future.

3.1.14 The tests contained in the first part of Draft Policy CC8, that proposals will be supported if the individual and cumulative impacts can be made acceptable, would also not be consistent with the Draft NPPF, which removes text to this effect at Paragraph 164. The removal of this wording puts more focus on the test contained in Paragraph 161 of the Draft NPPF which state that impacts should be addressed 'appropriately'.

3.1.15 The supporting text for Draft Policy CC8 also states that "In accordance with government guidance, the availability of agricultural land used for food production will be considered when deciding what sites are most appropriate for development". It is prudent of us to note that text to this effect has been removed from NPPF Footnote 62 in the Draft version of the NPPF which went to consultation from 30 July 2024 to 24 September 2024.



3.2 Draft Policy CC9 Protecting Renewable Energy Infrastructure

3.2.1 RWE is pleased to see the use of a policy to ensure that the continued operation of existing or approved renewable energy infrastructure is unaffected by future development schemes.

3.3 Draft Policy CC4 – Net zero carbon (operational)

3.3.1 Draft Policy CC4 states that all development proposals should provide for the maximum generation of renewable electricity as practically and viably possible on-site.

3.3.2 RWE is highly supportive of this policy, which suggests support for the principle of overplanting on development sites for ground mounted solar PV. Overplanting is the situation in which the maximum installed generating capacity (measured in direct current 'DC') of the solar generation facility is larger than the facility's grid connection (measured in alternating current 'AC') would allow. This allows the Applicant to maximise the renewable energy generating efficiency of the development over its lifetime, by mitigating the risk of deteriorating technology or the risk that the supply of energy to the grid falls below the maximum export capacity of the site at any time. This approach makes best use of the available grid connection's export capacity with the land that is available for the development.

3.3.3 There are tests embedded in national policy which relate specifically to overplanting, which any development proposal in Rutland would also be subject to. NPS EN-3 recognises that reasonable overplanting should be considered acceptable by planning decision-makers, provided that:

- The electricity exported to the grid does not exceed the statutory threshold such that the scheme would be categorised as a "nationally significant infrastructure project";
- The overplanting can be justified; and
- The decision-maker assesses the proposed development and its impacts on the basis of its full extent including any overplanting.



4 Chapter 9 – Environment

4.1 Draft Policy EN6 – Protecting agricultural land

- 4.1.1 Draft Policy EN6 states that planning permission for development which would lead to the loss of Grade 1, 2 and 3a agricultural land will only be permitted where the land is allocated; or it has been clearly demonstrated that for significant development of agricultural land resulting in the loss of Best and Most Versatile land that there are no other more suitable and sustainably located sites available and that the needs for development are sufficient to override the need to protect Best and Most Versatile agricultural land.
- 4.1.2 Furthermore, it states that Grade 3 land (both 3a and 3b) may be permitted for Solar PV where the proposal meets the requirements of Policy CC8. It is good to see the Council distinguish solar PV development from other types of development in relation to its impact on Grade 3 agricultural land. Solar PV development is temporary and does not result in the permanent loss of agricultural land nor does construction involve soil removal. Furthermore, over the duration of a solar PV project, soil on site typically becomes more fertile and productive, enhancing future crop options whilst increasing the farmland's long-term agricultural potential. The site may also continue to be put into agricultural use for sheep grazing.
- 4.1.3 In its current form however, the policy wording is not useful because it does not indicate which circumstances Grade 3 land would be permitted for Solar PV development, which is, in any event, required to meet the requirements of Draft Policy CC8. We have confirmed our views on how clarity can be provided in response to Draft Policy CC8 above. Another potential and useful approach might be to state that 'less weight will be given to the loss of Grade 3 agricultural land where the proposal is for solar PV development or other development that would not result in the permanent loss of agricultural land or include substantial soil removal'.
- 4.1.4 Lastly, the phrase "grade 1 and 2 will be ruled out for renewable energy use" is inconsistent with the NPPF, which provides 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 first. So long as this approach is demonstrated, Grade 1 and 2 land should not necessarily be ruled out.
- 4.1.5 These comments are made to ensure that the Draft Plan contains policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals, as is required of plans by NPPF paragraph 16. This would support a plan which is consistent with national policy, which is a necessary test of soundness.



5 Closing remarks

5.1 Summary

- 5.1.1 RWE is pleased to see that the Council has progressed the Draft Plan within a relatively short timeframe, especially given the fluctuating legislative and policy context of the last few years. RWE is keen to support the Council with achieving its programme, which includes examination in 2025.
- 5.1.2 RWE is generally supportive of the draft policies contained within the Draft Plan. Particularly those which relate to renewable energy generating infrastructure. Nonetheless, specific comments have been provided to ensure that the Draft Plan contains policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals, as is required of plans by NPPF paragraph 16. This would support a plan which is consistent with national policy, which is a necessary test of soundness.

