

P23-1730

21 January 2026

Lee Osborne
Knowsley Metropolitan Borough Council
Planning Services – Knowsley Council
Municipal Buildings
Huyton
Knowsley
L36 9UX

Dear Lee,

Rebuttal Letter in Relation to Planning Application 25/00521/FUL for a Proposed Battery Energy Storage System on Land to the East of Perimeter Road, Kirkby, Knowsley

Pegasus Group has been instructed by Balance Power Projects Ltd ('the Applicant') to prepare a Rebuttal Letter to Knowsley Metropolitan District Council to respond to comments received on planning application 25/00521/FUL, and following a meeting held on site with yourself on 20 January 2026.

The planning application was submitted on 9 September 2025 and was subsequently validated on 27 October 2025. The determination deadline was 26 January 2026, and an extension of time has been agreed between the Applicant and the Case Officer to 13 March 2026.

No formal objections have been raised in relation to the scheme by statutory consultees and two public objections have been received.

This Rebuttal Letter has been split into subsections which will cover the following topics:

- Grey Belt;
- Very Special Circumstances;
- Clarify the Council's Scheme of Delegation;
- Clarify the Council's position on referring the application to the Secretary of State; and
- Public Comments.

Grey Belt

In the submitted Planning, Design and Access Statement ('PDAS') the Applicant states that the application Site (herein referred to as 'the Site') falls within the definition of Grey Belt, and

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therefore the proposed development would not be considered 'inappropriate development' in the Green Belt.

Grey Belt is defined in Annex 2 of NPPF as '*land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.*

The purposes of Green Belt defined in NPPF paragraph 143 are:

- a) to check the unrestricted sprawl of large built-up areas;**
- b) to prevent neighbouring towns merging into one another;**
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and**
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The Council have confirmed in their email (14 Jan 2026) that the Site makes no contribution to purposes (a), (b) or (d) of the Green Belt and no Footnote 7 policies apply. The Council however states that the proposal constitutes 'inappropriate development' in the Green Belt. The Council refer to the Paragraph 007 of the Green Belt Planning Policy Guidance which states:

"An assessment of Green Belt will (alongside other considerations) inform the determination of applications which involve reaching a judgement as to whether proposals utilise grey belt land and whether development of the site would fundamentally undermine the purposes of the remaining Green Belt across the plan area.

Where grey belt sites are not identified in existing plans or Green Belt assessments, it is expected that authorities should consider evidence, in light of this guidance, on:

- *whether the site strongly contributes to the Green Belt purposes a, b or d; and*
- *whether the application of policies to areas and assets of particular importance identified in footnote 7 to the NPPF (other than Green Belt) provide a strong reason to restrict development; and*
- *whether development of the site would fundamentally undermine the purposes of the remaining Green Belt across the plan area, as set out in national policy and this guidance."*

The Council continue to say:

"With regards the last bullet point in the quoted text above the LPA considers that the site does not have strong defensible features to the northern and eastern boundaries and would fundamentally undermine the purposes of the remaining Green Belt. As a result, the proposal constitutes inappropriate development in the Green Belt. Therefore, the application will consider the 'very special circumstances' case. As such, should Planning Committee be minded to approve the application it would then need to be referred to the SOS and the decision notice issued once the requisite time has passed, if there is no call-in."

The Council have not referenced National Planning Policy Framework (NPPF) Paragraph 155 in their correspondence, which states the following:

"The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
- b. There is a demonstrable unmet need for the type of development proposed⁵⁶;*
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework⁵⁷; and*
- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below"*

Each of the four policy tests are assessed below.

Limb (a)

The Council agrees the site is Grey Belt but believes that development at the site would undermine the remaining Green Belt, as the site lacks strong defensible features along its northern and eastern boundaries.

The Council confirms that the Site makes no contribution to purposes (a), (b) and (d) of the Green Belt. Turning to purpose (e), the Applicant considers that this is not relevant to the site as the Site Selection Report demonstrates that there are no other alternative sites outside of the Green Belt. As it is agreed on a Site level that the proposed development makes no contribution to purposes (a), (b), (d) and (e), it is considered that the proposed development would not fundamentally undermine these purposes at a wider Green Belt level. Such conclusion is considered to be contrary to the agreed position.

Purpose (c) serves to assist in safeguarding the countryside from encroachment. The PDAS confirms, the Site is vacant from built development. However, energy infrastructure in the form of

large electricity pylons and overhead cables, as well as existing commercial/industrial development to the west are immediately adjacent to the west of the site.

The Council justify their conclusion that the development is 'inappropriate development' in the Countryside because the "site does not have strong defensible features to the northern and eastern boundaries". Taking each of these in turn:

Eastern Site Boundary – the Site is bound by a mature tree belt to the south and more dense woodland area along the entirety of the eastern boundary of the Site. The defensible feature can be clearly seen in the below Google Earth imagery of the Site and when visiting the Site in person. The existing boundary treatment was pointed out when meeting on site earlier this week.



Figure 1 – Google Earth Imagery of the Site and the wider area

Northern Site Boundary – comprising the wider former landfill. Due to the previous use of the land, the ground levels range between 3-9m higher than the ground level on the Site. The difference in ground levels can be clearly seen in the submitted Topographical Survey (Appendix A of the Drainage Strategy, also provided at **Appendix 1** of this letter). This coupled with the height of the tallest element of the Site (Substation) being 6.73m it is considered that the northern boundary of the Site is well defended, with wider views being limited.

It was observed at the meeting that the Site is located within a 'bowl' where features to each direction provide strong boundaries to the site and which limits viewpoints into the Site.



Appendix 2 provides a photo of the higher ground located to the north of the Site, and **Appendix 3** is a photo showing the woodland area to the east. Both photographs have been taken from within the Site area looking outward and demonstrates the strong features.

Furthermore, the well-screened Site contributes an overall very small proportion (0.07%) of the Knowsley's Green Belt and therefore the scale of the proposals at the Site should not be considered to "*fundamentally undermine*" the wider Green Belt.

The reasons outlined above, which were also identified during the site visit (20 January 2026), the Applicant strongly disagrees with the Council's assessment that the Site does not have defensible features to the northern and eastern boundaries of the Site. This was agreed between the Applicant and the Case Officer in the meeting.

The existing features restrict intervisibility of the Site and significantly limit its visual relationship with the wider Green Belt. Coupled with the Landscape & Visual Assessment that any wider views are currently influenced by the existing energy infrastructure within the local landscape, the Site does meet the policy test set out in Limb (a) of Paragraph 155 of the NPPF.

Limb (b)

Limb (b) of Paragraph 155 specifies that development in the Green Belt is also not inappropriate where there is a demonstrable unmet need for the type of development proposed. The overall need for renewable energy (both nationally and locally) is well documented in Government papers and demonstrated in the plethora of appeal decisions allowing energy developments.

Limb (c)

There are no conflicts with limb c) of Paragraph 155, as there are no significant impacts arising on the Highway Network. This aligns with the conclusions of this application's Construction Traffic Management Plan (CTMP).

Limb (d)

Limb (d) of Paragraph 155 relates to housing developments and so is not relevant for the Proposed development.

The Council agree the Site is Grey Belt and the Applicant has clearly demonstrated the proposed development satisfies the four tests of Paragraph 155 in NPPF. Accordingly, the proposed development should not be assessed as 'inappropriate development' in the Green Belt.

The Applicant therefore respectfully requests the Council to review their position on the Grey Belt.

Very Special Circumstances

Notwithstanding the Applicant's position that the Site is Grey Belt land, and therefore not 'inappropriate development' in the Green Belt, the Applicant has provided Very Special Circumstances (VSC) for completeness. The Applicant's VSC is clearly set out in the submitted PDAS in paragraph 6.30.

Appeal Decision ref. 3345744 states the following in relation to Very Special Circumstances for a 99.8MW BESS scheme in Dudley Metropolitan Borough Council. This recent decision should be read in conjunction with the historic appeal decisions within the Green Belt listed in the submitted PDAS in paragraphs 6.54–6.59. The provided list is not exhaustive, with numerous examples demonstrated over the past years of BESS schemes demonstrating VSC.

"The very significant weight attached to the contribution to mitigating climate change and to energy security, the significant weight attached to the absence of alternative sites and to the potential for permanent BNG and the moderate weight that the economic benefits generated by the proposal clearly outweighs the temporary harm, to the character and appearance of the area. Accordingly, overall, very special circumstances exist which justify the development."

Another relevant Appeal Decision is for a BESS scheme in Solihull Metropolitan Borough Council (Appeal ref. 3355759). The Inspector found that *"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."*

Recent Appeal decisions support the Applicant's case that clear and justifiable Very Special Circumstances exist in relation to this proposed development, and which outweigh the impact on the Green Belt.

Council's Scheme of Delegation

The Council have informed the Applicant that the application has been referred to the Planning Committee. The Case Officer stated in an email to the Applicant that this is because the application is considered "committee worthy". The Applicant is looking to confirm that the decision to call the application is in line with the Council's Constitution for 2025/2026.

The Council's Constitution states that *"all matters relating to the functions of the Council as Local Planning Authority, Minerals Planning Authority and Waste Planning Authority as set out in Part 3 Section 3 of this Constitution are delegated to the Executive Director (Regeneration and Economic Development), except those matters below: –*

- i. all applications where the development would be a departure from the Development Plan and the officer recommendation is to approve;*
- ii. all applications for major development where no policy exists relevant to the development;*

- iii. *all applications to which either 5 or more individual and independent representations have been received from separate households raising 'material' planning considerations in objection to a proposed development, where the officer recommendation is to approve the application, or 5 or more individual and independent representations have been received from separate households raising 'material' planning considerations in support of a proposed development and the officer recommendation is to refuse the application. (For the avoidance of doubt, petitions and cycle style/circular letters will count as one representation; and responses received from Parish and Town Councils count as a 'consultation response' rather than a representation);*
- iv. *all applications which are submitted by or on behalf of a Councillor and/or a Council officer employed at Head of Service level or above or by any officer within the Planning service;*
- v. *all applications which, in the opinion of the Executive Director (Regeneration and Economic Development), are potentially controversial, have significant environmental impact, and/or will generate significant public interest;*
- vi. *all applications which the Executive Director (Regeneration and Economic Development), in consultation with the Chairperson of the Planning Committee, has called in from delegation to Committee level for decision (due, for example, to the level of representations received) within 21 days of appearing on the weekly list;*
- vii. *all applications which require referral to the Secretary of State;*
- viii. *the issue of a Completion Notice; and*
- ix. *powers to acquire a listed building in need of repair and to serve a repairs notice."*

Exceptions (ii), (iii), (iv), (vi), (viii) and (ix) are not considered relevant to this proposal.

The Applicant considers that exception (i) is not relevant as the proposed development is not a departure from the Development Plan as the proposed development is considered to be Grey Belt, which is not considered inappropriate development in the Green Belt. Notwithstanding this, Very Special Circumstances has demonstrated that the harm to the Green Belt (including any harm to its openness, purposes or to its visual and recreational amenities) would be clearly outweighed by other considerations if the Council did consider this proposal would constitute inappropriate development.

Turning to exception (v), the proposed development has not proven to be controversial due to only two public objections being received and no statutory consultees objecting to the scheme. The application package also demonstrates that there are no significant environmental impacts.

Point (vii) is discussed in more detail below.

As discussed in the Site meeting, it is also proposed that application 25/00228/FUL will be referred to the Planning Committee. It is understood that there are outstanding consultee objections for this scheme and there are unresolved matters. It should therefore be noted that the context of both schemes are different and referring the contentious scheme to the Committee should not set a precedent for this scheme which has no consultee objections and only two public comments.

It is therefore requested that the Council clearly outlines in the scheme of delegation and Council's Constitution why the application has been called in.

Referral to the Secretary of State

The Council has informed the Applicant that the proposed development will be referred to the Secretary of State (SoS) if the scheme is approved. The Council has explained that this is *"in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 Article 31 (1) as a major development Green Belt application which is not one of the listed exceptions with regards to development in the Green Belt and therefore is inappropriate development but is nonetheless recommended for approval (notwithstanding any consultee responses) due to 'very special circumstances'".*

It is not disputed by the Applicant that the legislation gives the Council the right to refer an application to the SoS. No further guidance is provided to state when this should be considered necessary, but the Applicant would like to highlight that there is no evidence that previous BESS schemes have been referred to the SoS in the Council. The proposed development is not a departure from the Development Plan and is in line with national planning policy as stated above in this letter.

As discussed at the Site meeting, the Applicant is aware of several examples of approved BESS developments in the Green Belt that were not referred to the SoS. Two examples of previous developments by the Applicant are other Local Planning Authorities are provided below. Please note that this is not an exhaustive list, and further examples can be found across the country.

- South Staffordshire Council (**24/00190/FULM**) – BESS scheme in the Green Belt approved 6 March 2025
- South Gloucestershire Council (**P23/O2405/F**) – BESS scheme in the Green Belt approved 16 August 2024

The Applicant would request that the Council reconsiders the proposed referral to the SoS, given the proposed development is in line with local and national planning policies.

Outstanding Consultee Comments

As discussed in the Site Meeting, the following Consultee Responses are outstanding:

- Environmental Agency

- Merseyside Environmental Advisory Service
- Lead Local Flood Authority and Drainage
- National Grid

We appreciate every effort you have made to chase the above consultee responses.

It was agreed that if the LLFA/Drainage had not responded by the deadline to the Committee an appropriately worded drainage condition would be placed on the Decision Notice. The condition would secure the final drainage details prior to construction. The Applicant would kindly request that the final condition is shared prior to the Committee.

The MEAS have been re-consulted. The submitted ecological surveys were not uploaded to the Council's Online Portal, but this has since been rectified. The requested information is included within the submitted ecological surveys, and it is considered that the consultation response would confirm this.

The EA have been consulted on 7 January 2026 following the Environmental Health response. It was agreed at the Site meeting that if the response is not received by the Planning Committee Meeting on 12 February 2026 you will recommend the application for approval, subject to the response of the EA being received. It is expected that the Committee would resolve to approve under delegated powers following no objections from the EA.

Public Objections

Two public objections have been received in relation to the proposed development. The Applicant has not received the full responses, but the Case Officer has summarised the responses.

The Applicant agrees with the Case Officer's response to the objection in relation to the loss of Grade 1 land. The Site was previously used as a historic landfill; therefore, it is considered that there is no material impact on best and most versatile agricultural land.

The objection in relation to Green Belt should refer to the earlier sections of this Rebuttal Letter and the PDAS, where the Applicant considers the Site to be Grey Belt and therefore not inappropriate development in the countryside. Notwithstanding this the Applicant's position that the Site is Grey Belt land, and therefore not 'inappropriate development' in the Green Belt, the Applicant has provided Very Special Circumstances (VSC) for completeness. The Applicant's VSC is clearly set out in the submitted PDAS in paragraph 6.30

The submitted ecological surveys have demonstrated that there will be no unacceptable impacts on ecology. Additionally, the proposed development delivers BNG of 16.5% in area (non-linear) habitats and a net gain of 3.84 of hedgerow units from a baseline of zero and a net gain of over 100% in watercourse units.



We trust this letter clarifies the Applicant's position in relation to the comments made by the Council. Please do not hesitate to contact us if any more information is required or if you have any questions.

Yours Sincerely,
Dafydd Gwilym

Principal Planner
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Appendix 1 – Topographical Map



Station	Estimate	95% CI	CI
UC1	344230.503	308400.417	62.23
UC2	344278.530	308240.354	50.27
PC4	344205.864	308437.235	48.88
PC2	344278.799	308406.722	57.35
PC3	344478.334	308508.889	85.17



Appendix 2 – Photograph Showing Higher Ground to the North of the Site





Appendix 3 – Photograph Showing the Wooded Area to the East of the Site

