

# Public Document Pack

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**PLEASE NOTE:** this meeting will take place at Phoenix House, but members of the Public and Press can and should attend via Zoom only. Please do not attend Phoenix House without prior agreement. The attached Protocol for Hybrid Meetings explains how this will work.

Join Zoom Meeting

<https://zoom.us/j/93661251310?pwd=MkQ4ZUhXN056R1dkNm50OW1wdzhDQT09>

Meeting ID: 936 6125 1310

Passcode: 541151

One tap mobile

08003582817,,93661251310#,,,,\*541151# The United Kingdom Toll-free

08000315717,,93661251310#,,,,\*541151# The United Kingdom Toll-free

Dial by your location

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Meeting ID: 936 6125 1310

Passcode: 541151

Find your local number: <https://zoom.us/u/abV0VjDAG7>

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## **MID DEVON DISTRICT COUNCIL**

### **PLANNING COMMITTEE**

**A MEETING** of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 18 August 2021 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 8 September 2021 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

### **STEPHEN WALFORD**

Chief Executive

10 August 2021

**Councillors:** Mrs F J Colthorpe (Chairman), G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, F W Letch and B G J Warren

## A G E N D A

### MEMBERS ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE

1     **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of substitute.

2     **HYBRID MEETING PROTOCOL** *(Pages 5 - 12)*  
Members to note the Hybrid Meetings Protocol.

3     **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.

4     **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**  
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest at each item.

5     **MINUTES OF THE PREVIOUS MEETING**  
Members to consider whether to approve the minutes as a correct record of the meeting held on 11 August 2021 (to follow).

6     **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.

7     **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing in the Plans List which have been deferred.

8     **THE PLANS LIST** *(Pages 13 - 44)*  
To consider the planning applications contained in the list.

9     **APPLICATION 19/01679/MFUL - CONSTRUCTION OF GROUND MOUNTED SOLAR PV PANELS TO GENERATE UP TO 49.9MW (SITE AREA 60.78HA) AND BATTERY STORAGE FACILITY TOGETHER WITH ALL ASSOCIATED WORKS, EQUIPMENT AND NECESSARY INFRASTRUCTURE - LAND AT NGR 303437 103555 EAST OF LANGFORD MILL AND TYE FARM, LANGFORD** *(Pages 45 - 124)*

At the Planning Committee meeting on 14 July 2021, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

## Covid-19 and meetings

From 7 May 2021, the law requires all councils to hold formal meetings in person. However, the Council is also required to follow government guidance about safety during the pandemic. For a short period – probably until 30 June – the Council will enable all people to continue to participate in meetings via Zoom.

You are strongly encouraged to participate via Zoom to keep everyone safe - there is limited capacity in meeting rooms if safety requirements are to be met. There are restrictions and conditions which apply to those in the building and the use of the building. You must not attend a meeting at Phoenix House without complying with the requirements in the new protocol for meetings. You must follow any directions you are given.

Please read the new meeting protocol which is available here:  
<https://democracy.middevon.gov.uk/documents/s21866/aaaaHybridMeetingProtocolMay2021.pdf>

If you want to ask a question or speak, email your full name to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk) by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed – as you can imagine, it is easier to see and manage public speaking when everyone is physically present in the same room. Notification in this way will ensure the meeting runs as smoothly as possible.

If you would like a copy of the Agenda in another format (for example in large print) please contact Carole Oliphant or Sally Gabriel on:

E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)  
[sgabriel@middevon.gov.uk](mailto:sgabriel@middevon.gov.uk)

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## Mid Devon District Council – Hybrid Meeting Protocol

### 1. Introduction

Remote meetings via Zoom have been used during the Covid-19 pandemic in accordance with the temporary legislation. That legislation ceases to apply from 7 May 2021. However, Covid-19 legislation and guidance continues in place and this places specific requirements for meetings in relation to health and safety, risk assessments and related matters.

The Council has therefore put in place temporary arrangements which will enable meetings to take place in compliance with legislation, whilst providing alternative participation opportunities to maintain a Covid-19 safe environment. All are asked to remember that the Council's offices at Phoenix House are not just meeting rooms – they are the place of employment for many and there are implications beyond just how the meetings are held.

The arrangements set out in this Protocol will apply to meetings from 7 May 2021 to (and including) 30 June 2021, unless the Council decides to change, curtail or extend them. At the date of this Protocol, it is expected that arrangements may change later this year – because the Government may change the law, the Covid-19 pandemic may have further receded and/or the Council makes alternative arrangements.

### 2. Hybrid arrangements – how will they work?

The primary objective is to ensure that meetings can continue as safely as possible and that the rights of Members and the Public are not diminished simply because the meeting is being held through a mix of online and face-to-face means. The Chairman will retain control and discretion over the conduct of the meeting and the Zoom host will provide administrative support to facilitate the meeting.

Please note that, exceptionally, meeting arrangements may change – in response to legislation, court decisions, or risk. This may include a meeting being postponed, or the hybrid arrangements changing or being withdrawn. We ask that you check the arrangements in advance of joining or attending the meeting.

#### (a) Members (councillors) entitled to vote

All Members entitled to vote in a meeting must be present in the same room – if they are to be classed as 'present' (count towards the quorum) and to cast a vote. If a Member entitled to vote is not in the room, they may still participate via Zoom (see below), but they will not be present (quorum) nor be able to vote.

#### (b) Other Members, Officers and the Public

The Council will use Zoom to enable all other Members, officers and the Public to attend and participate in meetings safely. Zoom will be enabled in all public meetings. Those attending the meeting physically will be able to see and hear Zoom participants via the existing large TV/monitor screens in the meeting rooms.

Those on Zoom will be able to hear Members in the room and see them – although this will be a whole room view and there will be no zooming in on individual members. It is essential therefore those Members present in the room use the microphones at all times and identify themselves before speaking.

There will be some Officers in the room – the Committee Administrator, the Zoom host and, at times, an additional support officer. There may also be a meeting room host to manage the safety of the meeting. All other Officers should use Zoom, unless they are specifically invited into the room by the Chairman of the meeting.

### **3. Zoom**

Zoom is the system the Council will be using for those attending Hybrid meetings remotely. It has functionality for audio, video, and screen sharing and you do not need to be a member of the Council or have a Zoom account to join a Zoom meeting.

### **4. Access to documents**

Member Services will publish the agenda and reports for committee meetings on the Council's website in line with usual practice. Paper copies of agendas will only be made available to those who have previously requested this and also the Chair of a meeting.

If any other Member wishes to have a paper copy, they must notify Member Services before the agenda is published, so they can arrange to post directly – it may take longer to organise printing, so as much notice as possible is appreciated.

The Public should continue to access agendas via the Council's website - and are encouraged to do so even after the offices at Phoenix House are open again.

### **5. Setting up the Meeting for Zoom attendance**

This will be done by Member Services. They will send a meeting request via Outlook which will appear in Members' Outlook calendar. Members and Officers will receive a URL link to click on to join the meeting. The Public will use the Zoom details on the front of the agenda. The telephone dial-in via Zoom will also be available.

### **6. Public Access and Participation**

#### **(a) Public Access:**

Members of the Public will be able to use a web link and standard internet browser. This will be displayed on the front of the agenda. Members of the Public should attend a meeting via Zoom, unless there are exceptional circumstances justifying attendance in person.

If any member of the Public still wishes to attend in person, they must notify Member Services **at least 3 working days before the meeting**. Notifications must be sent by email to:

[Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk)

<b>Day of meeting</b>	<b>Notice given by</b>
Monday	Previous Wednesday
Tuesday	Previous Thursday
Wednesday	Previous Friday
Thursday	Monday
Friday	Tuesday

The meeting risk assessment may need to be updated. Member Services will liaise with the Chief Executive, Monitoring Officer and the Chairman of the meeting. A decision will be taken on whether attendance in person can be safely accommodated.

(b) Public Participation (speaking):

Public questions will continue in line with the Council's current arrangements as far as is practicable. However, to ensure that the meeting runs smoothly and that no member of the public is missed, all those who wish to speak must register **by 4pm on the day before the meeting**. They should email their full name to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk). If they wish to circulate their question in advance, that would be helpful.

At public question time, the Chair will ask each registered person to speak at the appropriate time. In the normal way, the public should state their full name, the agenda item they wish to speak to **before** they proceed with their question. Unless they have registered, a member of the public may not be called to speak, except at the discretion of the Chairman.

If a member of the public wishes to ask a question but cannot attend the meeting for whatever reason, there is nothing to prevent them from emailing members of the Committee with their question, views or concern in advance. However, if they do so, it would be helpful if a copy could be sent to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk) as well.

## **7. Arrangements for any person attending meetings at Phoenix House**

Anyone attending a meeting in person must observe the following requirements:

- (a) For non-voting members, officers and the Public – are there exceptional circumstances to justify attending? If so, please notify in advance and in paragraph 6 above. It is essential that the Council knows who is attending and how many will be in the room, so that the meeting risk assessment can be updated.

- (b) Do not attend if you: have any symptoms of Covid-19; are self-isolating (with or without a positive Covid-19 test); or are in a period of post-travel quarantine.
- (c) Wear a mask at all times except when invited to speak by the Chairman of the meeting. If you have a medical exemption for wearing a mask, please attend via Zoom unless you are a Member who must attend to vote.
- (d) Use the hand sanitiser which is available in the building.
- (e) Follow the directions for entering, moving around and exiting the building. Follow the instructions of any Officer present to manage the safety of the meeting and/or the Chairman.
- (f) Sign into the meeting if requested to do so – you may be asked to leave contact details
- (g) Enter and leave the building promptly – do not gather inside after the meeting has finished, or during any break in the meeting
- (h) Bring your own water/refreshments, as these will not be available for the time being.
- (i) Maintain social distancing throughout – this is 2 metres apart, or 1 metre with additional safeguards (e.g. face masks).

## **8. Starting the Meeting**

At the start of the meeting, the Member Services Officer will check all required attendees are present and that there is a quorum. If there is no quorum, the meeting will be adjourned. This applies if, during the meeting, it becomes inquorate for whatever reason.

The Chair will remind all Members, Officers and the Public attending via Zoom that **all microphones must be muted**, unless and until they are speaking. This prevents background noise, coughing etc. which is intrusive and disruptive during the meeting. The Hosting Officer will enforce this and will be able to turn off participant mics when they are not in use.

## **9. Declaration of Interests**

Members should declare their interests in the usual way. A Member with a disclosable pecuniary interest is required to leave the room. If they are attending via Zoom, they will be moved to the waiting room for the duration of the item.

## **10. The Meeting and Debate**

- (a) For Members and Officers physically present

Each member should raise their hand to indicate a request to speak. When called, they must identify themselves for the recording and for the benefit of those attending via Zoom. The microphone must be used when speaking – standing will make it difficult for those on Zoom to hear and is discouraged, including at meetings of Full Council.

(b) For any person attending via Zoom

The Council will not be using the Chat function. The Chairman will call speakers in accordance with the usual rules i.e. either at Public Question Time, or for Members and Officers, when they raise their Zoom hand to speak.

No decision or outcome will be invalidated by a failure of the Chair to call a member to speak – remote management of meetings is intensive and the Hybrid arrangements are likely to be more so. It is reasonable to expect that some requests will be inadvertently missed from time to time.

When referring to reports or making specific comments, Members and Officers should refer to the report and page number whenever possible. This will help all present or in attendance to have a clear understanding of what is being discussed.

## **11. Voting**

Voting for meetings in person is normally through a show of hands. The Member Services Officer will announce the numerical result of the vote for the benefit of those attending via Zoom.

## **12. Meeting Etiquette Reminder for Zoom attendees**

- Mute your microphone – you will still be able to hear what is being said.
- Only speak when invited to do so by the Chair.
- Speak clearly and please state your name each time you speak
- If you're referring to a specific page, mention the page number.

## **13. Part 2 Reports and Debate**

There are times when council meetings are not open to the public, when confidential, or “exempt” issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration.

If there are members of the public and press attending the meeting, then the Member Services Officer will, at the appropriate time, remove them to a waiting room for the duration of that item. They can then be invited back in when the business returns to Part 1.

Please turn off smart speakers such as Amazon Echo (Alexa), Google Home or smart music devices. These could inadvertently record phone or video conversations, which would not be appropriate during the consideration of confidential items.

#### **14. Interpretation of standing orders**

Where the Chairman is required to interpret the Council's Constitution and procedural rules and how they apply to remote attendance, they may take advice from the Member Services Officer or Monitoring Officer prior to making a ruling. However, the Chair's decision shall be final.

#### **15. Disorderly Conduct by Members**

If a Member behaves in the manner as outlined in the Constitution (persistently ignoring or disobeying the ruling of the Chair or behaving irregularly, improperly or offensively or deliberately obstructs the business of the meeting), any other Member may move 'That the member named be not further heard' which, if seconded, must be put to the vote without discussion.

If the same behaviour persists and a Motion is approved 'that the member named do leave the meeting', then (if attending via Zoom) they will be removed as a participant by the Member Services Officer.

#### **16. Disturbance from Members of the Public**

If any member of the public interrupts a meeting the Chairman will warn them accordingly. If that person continues to interrupt or disrupt proceedings the Chairman may ask the Member Services Officer to remove them as a participant from the meeting.

#### **17. Technical issues – meeting management**

If the Chairman, the Hosting Officer or the Member Services Officer identifies a problem with the systems from the Council's side, the Chairman should either declare a recess while the fault is addressed or, if the fault is minor (e.g. unable to bring up a presentation), it may be appropriate to move onto the next item of business in order to progress through the agenda. If it is not possible to address the fault, the meeting will be adjourned until such time as it can be reconvened.

If the meeting was due to determine an urgent matter and it has not been possible to continue because of technical difficulties, the Chief Executive, Leader and relevant Cabinet Member, in consultation with the Monitoring Officer, shall explore such other means of taking the decision as may be permitted by the Council's constitution.

Where any Member, Officer or the Public experience their own technical problems during the course of a meeting e.g. through internet connectivity or otherwise, the meeting will not be automatically suspended or adjourned.

#### **18. Technical issues – Individual Responsibility (Members and Officers)**

Many members, officers and the Public live in places where broadband speeds are poor, but technical issues can arise at any time for a number of reasons. The following guidelines, if followed, should help reduce disruption.

- Join public Zoom meetings by telephone if there is a problem with the internet. Before all meetings, note down or take a photograph of the front page of the agenda which has the necessary telephone numbers. Annex 1 to this protocol contains a brief step-by-step guide to what to expect
- Consider an alternative location from which to join the meeting, but staying safe and keeping confidential information secure. For officers, this may mean considering whether to come into the office, subject to this being safe and practicable (childcare etc.)
- Have to hand the telephone number of someone attending the meeting – and contact them if necessary to explain the problem in connecting
- Officers should have an ‘understudy’ or deputy briefed and on standby to attend and present as needed (and their telephone numbers to hand)

## Phone only access to zoom meetings

(Before you start **make sure you know the Meeting ID and the Meeting Password**) – Both of these are available on the agenda for the meeting

**Call the toll free number** either on the meeting agenda or on the Outlook appointment (this will start with 0800 --- ----)

(Ensure your phone is on 'speaker' if you can)

A message will sound saying *"Welcome to Zoom, enter your meeting ID followed by the hash button"*

- **Enter Meeting ID followed by #**

Wait for next message which will say *"If you are a participant, please press hash to continue"*

- **Press #**

Wait for next message which will say *"Enter Meeting Password followed by hash"*

- **Enter 6 digit Meeting Password followed by #**

Wait for the following two messages:

*"You are currently being held in a waiting room, the Host will release you from 'hold' in a minute"*

**Wait.....**

*"You have now entered the meeting"*

### Important notes for participating in meetings

Press \*6 to toggle between 'mute' and 'unmute' (you should always ensure you are muted until you are called upon to speak)

If you wish to speak you can '**raise your hand**' by pressing \*9. Wait for the Chairman to call you to speak. The Host will lower your hand after you have spoken. Make sure you mute yourself afterwards.

## PLANNING COMMITTEE AGENDA - 18th August 2021

### Applications of a non-delegated nature

<u>Item No.</u>	Description
-----------------	-------------

- |     |   |
|-----|---|
| 01. | 20/02128/FULL - Change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works at Pleasant Streams, Uffculme, Cullompton.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions. |
|-----|---|

Application No. 20/02128/FULL

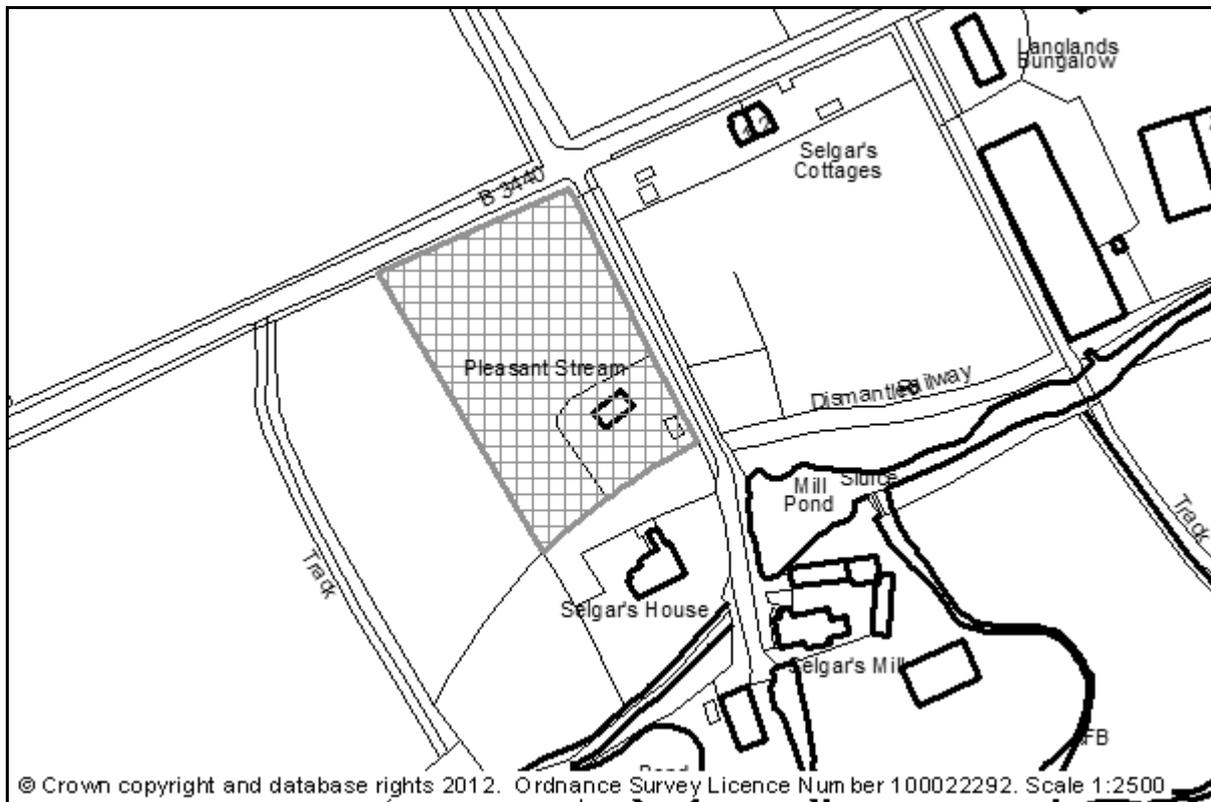
Grid Ref: 305040 : 111760

Applicant: Mr Thomas Dolan

Location: Pleasant Streams  
Uffculme  
Cullompton  
Devon

Proposal: Change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works

Date Valid: 4th January 2021



**APPLICATION NO: 20/02128/FULL**

**Site Visit: Yes**

**Date of Site Visit: 18<sup>th</sup> June 2021**

**MEMBER CALL-IN**

**The application has been called in by Cllr Radford if recommended for approval to consider;**

- 1) The planning history of the site – planning permission was granted to the previous occupier on a personal basis only on the basis that it should return to agricultural use once occupation ceased.
- 2) The site is within 400m of livestock.
- 3) Whether the proposed development constitutes over-development of the site
- 4) Whether the development would result in serious highway and traffic concerns.

**RECOMMENDATION**

Grant permission subject to conditions

**PROPOSED DEVELOPMENT**

Change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works.

The site is located in the countryside to the south west of Uffculme and north east of Willand. The site is sited to the south of Uffculme Road with access currently achieved via the private lane which borders the eastern boundary of the site and also serves the properties at Selgars House and Selgars Mill to the south/ south east of the site. The site area extends to approximately 0.65 hectares. An area of approximately 1.3 hectares in the south east corner of the site has previously been used for the siting of three mobile homes for residential occupation subject to a personal occupancy restriction (see planning history), the residential occupation by the previous traveller family is understood to have been ongoing for in excess of 25 years.

This application seeks permission for the change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works. The new access is proposed to provide direct access from the B3440 (Uffculme Road). The submitted plan indicates that pitches 1-4 would be provided in the northern part of the site, adjacent to the eastern boundary. Pitches 5 and 6 are proposed to be located to the south of the small belt of trees across the site. The plan indicates that a new hedgerow would be provided on a spoil bank to enclose the western boundary from the wider agricultural field. Additional planting is indicated to the northern boundary and the eastern boundary to infill the existing access point. The plan indicates that foul drainage would be managed via a package treatment system located in the agricultural land to the west. Surface water drainage is proposed to be managed via a soakaway.

The southern part of the site and extending west beyond the site boundary is currently being used for the siting of mobile homes in breach of planning control. A poultry house and hardstanding has also been constructed to the west of the site, however regularisation is not sought for this as part of this application.

## **APPLICANT'S SUPPORTING INFORMATION**

Application form  
Statement in relation to details of hard and soft landscaping  
Information regarding Devon Hedges  
Access appraisal technical note by Sanderson Associates  
Ultidrive porous tarmac brochure  
Wildlife trigger table  
Planning, Design and Access Statement  
FDA1 form  
Statement re lighting and drainage  
Site location plan & block plan  
Letter regarding gypsy traveller status

Revised/additional information received 4<sup>th</sup> August  
Revised block plan – ref PLP/2021 REV E  
Preliminary ecological appraisal  
Google earth images

## **RELEVANT PLANNING HISTORY**

95/00218/FULL - PERMIT date 5th September 1995Renewal of previous temporary consent for the siting of a mobile home  
05/01511/FULL - WD date 15th September 2005Variation of conditions (1) and (2) of planning permission 4/25/95/0219/R to remove the personal permission and allow continued use of land for any Gypsy family and to allow the number of caravans to increase to 3 residential caravans in total on the site  
05/02300/FULL - PERMIT date 8th December 2005Continuation of the use of land for the siting of three mobile caravans (resubmission)  
09/01039/FULL- REFUSE Change of use of agricultural land to provide 12 permanent pitches for the use of gypsies & travellers including the construction of 6 double amenity blocks and formation of access  
11/01238/FULL - REFUSE date 12th April 2012Variation of condition 1 of planning permission 05/02300/FULL to allow the siting of a further (fourth) caravan and removal of condition 2 of planning permission 05/02300/FULL (personal consent to the Hooke family only) to allow occupation of site by persons falling within the definition of a "gypsy" (APPEAL DISMISSED 8.3.13)  
20/02128/FULL - PCO date Change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Local Plan 2013 – 2033**

Policy S1 -Sustainable development priorities  
Policy S3- Meeting housing needs  
Policy S9 – Environment  
Policy S14 – Countryside  
Policy DM1 -High quality design  
Policy DM3 - Transport and air quality  
Policy DM4 – Pollution  
Policy DM5 – Parking  
Policy DM7 - Traveller sites

National Planning Policy Framework

National Planning Practice Guidance

Planning policy statement for travellers (PPTS)

## **CONSULTATIONS**

**HALBERTON PARISH COUNCIL - 24/01/2021** - The planning application should not be accepted and request for Councillor Radford to call the application in on the following grounds:

The land was designated agricultural land and site permission had only been granted to the previous owner for a single unit with a stipulation that it should return to agricultural use.

The site was within 400m of livestock.

It was an unauthorised development and an enforcement order had been issued and ignored.

The proposed development constituted over-development of the site and raised serious highway and traffic concerns.

**30/03/2021** - After discussion, the Councillors of Halberton Parish Council unanimously RESOLVED that the committee should object to this application and firmly recommend its refusal as previously conveyed on 24th January 2021. Furthermore, the request for Councillor Radford to call the application in should remain in place.

The Council is mindful of the planning history of the site and the restrictions which were placed on the original permission which included a personal condition that the land be restricted to the resident applying for such permission in 2005. If the land was subsequently vacated by said resident and her dependents that the land should be restored to agricultural land and all caravans, hard standing and private drainage systems should be removed.

It is the council's understanding that the above conditions remain in place and that if 'said resident or her dependents' are not living on the land then there is no change of use available and it should revert to agricultural land and new occupiers would not be permitted to develop the site.

When the new occupiers of the site started major development works, the matter was referred to the Planning Enforcement Officers but this has not resulted in the work being stopped given that planning permission for such development does not exist. It is noted that the planning application refers to retrospective permission being sought.

The site is outside any settlement area for development, is in open countryside and in very close proximity to Selgars House and the three surrounding properties.

In addition, access to/from the site is onto a busy road subject to the national speed limit and without street lighting. Furthermore, there is not footpath on the main road leading to either Willand or Uffculme and thus local facilities and the bus service is very limited resulting in journey to/from the site being by motor vehicle. The Council thus has considerable concerns with regard to road safety.

The Council is also given to understand that poultry cages have been erected in close proximity to the existing houses again an area for concern.

Taking into consideration the legislation and policies on the provision of traveller/gypsy sites, the development of this particular land would appear to fall outside the current guidelines and be in direct conflict with the conditions set out in 2005, the Council would strongly re-iterate its view that the application should be refused.

**21/06/2021-** At the Halberton Parish Council meeting on 8th June 2021, it was unanimously RESOLVED to write to you regarding the above application and to raise the Council's concern, and that of local residents, to the continued delay in MDDC making a decision on this application. As I am sure you will appreciate, the time taken to deal with the application is having an adverse effect on local residents. It is the Council's understanding that planning applications should be dealt with in a timely fashion and this application has been with MDDC for over six months. Whilst the delay continues potentially further unauthorised development of the site could and may have been undertaken.

As you are aware, the Councillors of Halberton Parish Council unanimously RESOLVED that the committee should object to this application and firmly recommend its refusal as conveyed to you on 24th January 2021 and again on 29th March 2021. The Council is mindful of the planning history of the site and the restrictions which were placed on the original permission and that the matter has been referred to the Planning Enforcement Officers. The Council, in its letter of 29th March 2021, asked that Councillor Radford call the application in and the Council would request that the application is now dealt with exponentially.

**WILLAND PARISH COUNCIL - 01/02/2021 -** Willand Parish Council discussed this application at a special meeting of the Planning Committee on 28 January 2021. It was the unanimous decision of the committee that it should object to this application and firmly recommend refusal.

The members were aware of the planning history of the site and the restrictions which were placed on the original permission and a number of attempts to achieve variations to the conditions to remove a restriction and to enlarge the capacity of the site. In 2005 an approval was obtained and three applicable conditions were that - 1. no more than 3 caravans should be on site; 2. there was a personal condition to the resident restricting occupation to her and her dependents and the third condition is stated to be "In the event that the application site becomes no longer required for the purpose referred to in conditions 1 and 2 of this permission, the three mobile caravans shall be removed from the site along with the hardened areas therein and the private septic tank drainage system previously serving this development shall become definite and the land shall be restored to agricultural land." These conditions have been tested a number of times over the years but variations have been refused in the main.

Members were also aware that in the summer of 2020 the site was offered for sale which led to nearby residents raising concerns with planning officers resulting in a clear assurance that "I have looked at the history of the site and past permissions and can confirm that the permission would only allow the caravans to be occupied by Mrs \*\*\* H\*\*\*\* and/or her dependants who also need to meet the definition of gypsies. This would therefore extend to her children and grandchildren." A request for clarification as to the status of the land met with the following officer response - "The

land itself does not benefit from any change of use. If the caravans are not occupied by Mrs H\*\*\*\* or dependants as the condition requires then the piece of land would revert back to agricultural land."

With this information members treated the application as for a gypsy traveller site outside of any settlement area for development and therefore in open countryside and in very close proximity to an existing small community of Selgars House and Selgars Mill which amounts to four dwellings. There are also Selgars Cottages in the vicinity.

It is noted that new occupiers of the site started major works to develop the site in November 2020. It is known that the matter was referred to the Planning Enforcement Officers yet works progressed through November and December. Councillors were concerned and disappointed to see that no meaningful action appeared to have been taken to stop the unapproved development and it has been allowed to expand making matters more difficult to recover the correct position.

On the Application form at 5 a description of the application reads "Part retrospective application for the change of use of land to provide 6no permanent pitches for residential use by Gypsy & Traveller family with associated development including formation of a new access, hardstanding and new Devon banks." There is no mention at this point of poultry cages or stables but the stables are mentioned in other documents. No substantive evidence is provided in the papers to show that the applicant is a gypsy or traveller as defined in legislation.

At 9 it refers to there being 6 existing car parking spaces which will be increased to 10. Photographs of the site show a lorry, container and other vehicles.

At 13 it states that foul sewage will be dealt with by a 'package treatment plant' but elsewhere in the application papers it refers to removing one cess pit and replacing it with a more modern one. What is going to be approved?

At 16 it states that there will be no gain of residential units, yet the application is for an increase from 3 to 6 when in fact there should be none. In the Design and Access Statement there is a reference to existing buildings being replaced by 4 further mobile units. This needs clarification.

The Design and Access Statement contains unclear and confusing statements in contradiction of points made in other documents.

It states: "do not intend to erect any further buildings so the landscape, visual impact and development will remain almost the same as it is now except for a small extension to the hardstanding." Members see this as a contradiction of what is sought and what has already been provided and can be observed on site. There are to be 6 permanent pitches instead of 3, there is to be more hardstanding, more fencing, the creation of new hedge banks, a new entrance onto the road with a drive through the site of tarmac and moveable stables. No mention is made of the comprehensive array of poultry pens which are evidenced in a photograph provided by an objector.

It is stated that: "The only lighting will be that which is attached to the mobile homes." In the application papers is detail of a lighting scheme which includes lampposts situated around the site.

It further states: "Overall, there would be little alteration to the appearance of the site and the development." Further into the document it states: "the site will be completely redeveloped." Much is made of agreeing to conditions but there has been no compliance to the original condition that the site should be returned to agricultural land if the previous owner and dependents left the site.

Members note the Highway comments and the fact that great reliance is placed on documentation which is 11 years old. This is a straight stretch of road with the national 60mph speed limit and the new entrance is to be introduced in close proximity to two existing entrances.

It is noted that MDDC Public Health has no objection but it is not clear that they have taken into account the extensive poultry pens, potential manure stores and flies all of which will be in close proximity to an adjoining property.

The Design and Access Statement refers to requirements of a previous policy which has now been replaced by The Mid Devon Local Plan 2013 - 2033 which was adopted in July 2020 and it is on these policies that considerations have been made which lead to the objection and recommendation for refusal of this application.

#### Policy S 1

g) Delivering a wide choice of high quality homes through a diverse housing mix and by meeting the housing needs of all sectors of the community including the provision of accessible housing for the elderly and disabled, those wishing to build their own home, affordable housing and gypsy and traveller pitches.

Earlier comment has been made as to substantiating the claim for the applicants being gypsies/travellers.

#### Policy S 3

e) A five year supply of gypsy and traveller pitches will be allocated on deliverable sites within Mid Devon to ensure that the predicted need for traveller sites will be met. A further supply of developable sites or broad locations for growth will be identified equivalent to a further ten years of predicted growth. The Housing Authority will seek to provide a public site for gypsy and traveller pitches within Mid Devon, subject to the availability of funding.

2.31 As set out in the Government statement 'Planning policy for traveller sites' the government's aim is to ensure fair and equal treatment for gypsies and travellers in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. To achieve this aim the statement indicates that working collaboratively local planning authorities should make their own assessment of need for traveller sites and identify a five year supply of deliverable sites with a further ten year supply of developable sites or broad locations for growth on top of this.

Further advice is contained later in the paragraph:

The need for gypsy and traveller pitches will be accommodated by pitches within larger housing sites, for example at Tiverton Eastern Urban Extension, North West Cullompton, East Cullompton and Pedlerspool in Crediton. The Council's preferred approach is for on-site provision as part of

larger housing proposals TIV1, CU1, CU7 and CRE5. Provision off-site will only be accepted where it is demonstrated that provision on a different site would achieve an acceptable outcome for Gypsies and Travellers as described in Policy DM7. Where such an acceptable outcome can be demonstrated, off-site provision must meet the requirements of Policy DM7, and a mechanism must be put in place to ensure that the pitches are delivered.

It is submitted that the location of this application site does not fit into this policy as it is far removed from any of the planned sites. It should be noted that this will be a privately owned site and not for public use.

#### Policy S14 Countryside

Development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Detailed development management policies will permit agricultural and other appropriate rural uses, subject to the following criteria:

a) Affordable and low cost housing to meet local needs, gypsy and traveller accommodation, residential conversion of appropriate existing buildings, replacement dwellings, housing essential to accommodate a rural worker and accommodation ancillary to a dwelling;

Paragraph 2.82 contains the following: National policy requires that new sites for travellers should be limited in open countryside that is away from existing settlements or outside areas allocated in the development plan. In certain circumstances the development of such sites outside of settlement limits will be appropriate, providing it can meet the criteria set out within Policy DM7 (gypsy and traveller accommodation).

Members are of the view that this site is in open countryside and not within areas identified in the plan and it does not meet the criteria of Policy DM7. It does not comply with National Policy which requires new sites for travellers to be limited in open countryside that is away from existing settlements or outside of areas allocated in the development plan. It will not preserve and where possible enhance the character, appearance and biodiversity of the countryside.

#### Policy DM7 Traveller sites

##### 1. Planning applications for Pitches and Plots

Planning applications for gypsy and traveller pitches, or plots for travelling showpeople, will be permitted where:

a) Suitable onsite facilities will be provided including space for children's play;

b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments; and

c) The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;

d) Occupation will be limited to those who meet the Government's published definition of gypsies and travellers, including travelling showpeople or their dependents; and

e) Safe and convenient access to local facilities is provided.

Sites with associated employment or storage elements will be permitted where there is specific justification and the location, scale, and nature of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.

## 2. Provision on allocated sites

Gypsy and Traveller pitches on allocated sites (sought by Policies TIV1, CU1, CU7 or CRE5) should be provided on site unless it is demonstrated that off-site provision will achieve an acceptable outcome for Gypsies and Travellers taking into account:

- i) Pitch numbers
- ii) Site facilities;
- iii) Accessibility to services, including health and education;
- iv) Early delivery of serviced pitches or plots which are available for occupation; and
- v) The provision of an effective mechanism for delivery.

Such sites must also meet the requirements of Part 1 of Policy DM7 above.

4.28 To ensure that sites will meet the needs of the travelling communities and the settled community a criteria based policy will be operated as set out above to determine applications for traveller sites. In order to ensure that users of sites will have access to facilities, national policy indicates that local planning authorities should very strictly limit new traveller site development in countryside that is away from existing settlements or outside allocations in the development plan. Sites will therefore only be permitted where facilities will be accessible without recourse to a car either by walking, cycling or utilising public transport. However, sites must also be in locations where the local environment is of satisfactory quality, so locations adjacent to noisy or polluting land uses or in areas of floodplain will not be suitable.

Members have concerns as to potential flooding risk from surface water and nearby water courses and ponds. The adjoining property has experience of flooding and this site could aggravate that.

The site does not have safe and convenient access to local facilities. There is no footpath on the main road leading to either Willand or Uffculme. There is no street lighting and the road is subject of the national speed limit. The bus service is very limited and so most journeys to access facilities will have to be by motor vehicle.

The site is very close to the settlement of Selgars House and Selgars Mill and some elements of it overlook windows in Selgars House. The poultry cages etc. are very close to the adjoining property. The site is also visible from the road.

There are so many conflicts of information and areas of noncompliance with policy that this application should be refused. Reliance on dealing with issues by way of condition would appear to be inappropriate in the light of experience to date.

**18/03/2021-** Willand Parish Council discussed this application at a special meeting of the Planning Committee on 18 March 2021. It was the unanimous decision of the committee that it should maintain its objection to this application and firmly recommend refusal.

The representations made in the response by the Parish Council dated 1 February 2021 to the original retrospective planning application are still considered relevant and should be taken, in full, as being part of this latest response.

Members are concerned that the application and updated/resubmitted papers do not contain sufficient and clear information with regard to a number of aspects. Inconsistencies and misleading information from the original application has not been addressed thereby inviting consultation on incomplete information.

The continued reference to the use of or amendment to conditions to deal with any issues does not give confidence of enforceability particularly when balanced against the management and development of the site thus far.

Status of Applicant.

The status of the applicant to substantiate the description of being a gypsy or traveller family has still not been established. The Parish Councillors are aware of information that the applicant has an established business and personal address elsewhere which is suggested to have been a permanent address and not substantiating a nomadic lifestyle.

Land ownership.

Land ownership details are still not clarified on the application form certificate and Land Registry records appear to still show the land being registered to the previous owner.

Block Plan

The revised block plan is misleading in that it gives a false impression with large areas of green when a different picture would be conveyed if the roadway and the areas for hard standing were clearly identified to scale and in a different colour. It does convey the extent of the original, now unapproved site area, and shows how considerably large and intrusive the new site will be on the countryside. The substantive and large area of poultry cages are not shown and are still not part of the application yet they too add to the excessive visual adverse impact of the application if approved.

It is suggested that the entrance gateway is not sufficiently distant from the main road to allow a lorry towing a caravan to completely clear the roadway. There is no evidence to show that there is any turning area sufficient to turn a lorry and caravan to ensure that vehicles can enter and leave the site in forward gear.

Foul and Surface Water drainage

The revised application shows that there will be five package treatment plants but there is no evidence to show why the site, if approved, cannot be connected to mains sewers. It is not considered that suitable and proven percolation tests have been carried out to show that the

ground can cope with soakaways that will cater for the substantive area of proposed hard standing and new roadway. The ground falls towards Selgars House and Mill where there is a water course and ponds/lakes. This presents a potential danger for flooding or pollution from the site.

#### Landscape and Environmental impact

It is clear that the development of this site is already having an adverse and harmful environmental impact on the visual amenity of the countryside. The closed board fencing along the boundary with Selgars House is not conducive to countryside being more of an urban amenity. The proposed planting of non-native trees which will take a considerable time to establish screening should not be acceptable at this location and will further draw attention to this site not being conducive and integrated into the area.

The proposed lighting is more in keeping with an urban housing estate than somewhere in open countryside. This will have a potential adverse impact on wildlife, particularly night hunters/foragers. There does not appear to be an up to date or relevant wildlife study.

#### Conclusion.

There is insufficient information for this application to be properly considered or approved. Because of this any consultees are responding to an incomplete application and unclear information.

The application in respect of this unapproved development is already having a harmful impact on occupiers of adjoining properties and the visual amenity of the landscape and countryside.

The application is in open countryside and is not compliant with policies in the NPPF or the MDDC Local Plan.

The application should be refused and the site restored to open countryside in accord with previous decisions.

**UFFCULME PARISH COUNCIL - 08/02/2021** - Uffculme Parish Council opposes this application and recommends the Officer Refuse permission.

The Council is aware of the history of the site and the previous permission granted. We understand that permission given under a previous application for the residence of one particular family on the site would be revoked to return the land to agricultural land when the site was vacated by the previous owner. Therefore we understand that this site should, in its entirety, be returned to agricultural land.

The Council has strong concerns that the current owner shows no respect for proper planning process and or conditions as they have carried out extensive works on the site without the correct permissions - we appreciate the new owner may not have been in receipt of all of the details regarding the site and previous permissions, however, now that they are aware all development should have been halted.

In the recently approved Local Plan there has been a designated sites for the gypsy and traveller community and we would expect the local planning authority to continue with the allocated sites within the new plan, rather than create new sites.

The council has concerns over the very poor access to the site, especially given the very large vehicles that have been noted on site.

Finally, this application was first brought to the attention of Uffculme Parish Council by concerned residents. The local planning authority did not initially consult Uffculme on this application.

**08/06/2021-** The Parish Council opposes this application.

The previous submission made stands, even though alternative plans and details have been provided.

The Council has concerns over the sewerage plans given that the site is on a floodplain and whether all expected avenues have been explored adequately in respect of mains sewerage.

The Council has concerns over the impact of heavy plant being kept on site and whether the necessary security of this would cause issue in respect of lighting and the impact of the site being seen from neighbouring AONB's.

The land should be returned top Agricultural land as set out in the previous temporary planning permission.

Uffculme Parish Council wholeheartedly supports Halberton Parish in opposing this application.

**HIGHWAY AUTHORITY – 20/01/2021-** The site is accessed off the B3440 County Route which is restricted to 60 MPH. The number of personal injury collisions which have been reported to the police in this area between 01/01/2015 and 31/12/2019 is one slight accident in 2016.

It is considered that an access can be achieved with suitable visibility, taking into account estimated speeds at this location, it is not considered that the impact will be severe or that there will be a safety concern with the proposal. The County Highway Authority agree with the Technical Note provided with this application and the previous comments made by Devon County Council.

Therefore the Highway Authority has no objections to this application

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF  
DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY,

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;

- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

2. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 600mm above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 215 metres in both directions.

REASON: To provide adequate visibility from and of emerging vehicles.

3. No development shall take place until details of the layout and construction of the access have been submitted to and approved in writing by the County Planning Authority. The approved details shall be implemented before the development is brought into use.

REASON: To ensure the layout and construction of the access is safe and suitable

4. The site access road shall be widened and maintained thereafter to not less than 6 metres for the first 10 metres back from its junction with the public highway and shall be provided with 10 metre kerb radii at the junction

REASON: To minimise congestion of the access

**16/03/2021-** The Highway Authority has no further comments to make on this application.

## **PUBLIC HEALTH - 18/01/2021**

Contaminated Land Condition - Contamination investigation and remediation strategy Info added under comments 14.1.21

Air Quality No comments 4.1.21

Environmental Permitting No objection to this proposal 04.01.21

Drainage No comments 4.1.21

Noise & other nuisances No comments 4.1.21

Housing Standards No comment 18/1/21

Licensing This will require a licence please contact licensing via licensing@middevon.gov.uk for further information. 14.01.21

Food Hygiene No comments 04.01.21

Private Water Supplies If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

Please contact Public Health at Mid Devon District Council on completion of proposal. IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT 04.01.21

Health and Safety No comments 04.01.21

Condition - Contamination investigation and remediation strategy

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:

I. all previous uses

II. potential contaminants associated with those uses

III. a conceptual model of the site indicating sources, pathways and receptors

IV. potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 & 2 and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 3. This must be subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed

remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. 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 Land Contamination Risk Management (LCRM).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### **03/03/2021 - additional comments**

Contaminated Land: There is potential for some historic contamination on this site and therefore a Stage 1 contaminated land assessment should be carried out prior to determination. If the results of this indicate a concern then the following condition should be included in any approval:

Condition - Contamination investigation and remediation strategy required 14.1.21

Drainage: There is a criteria for foul drainage set by the EA and if the mains is within a certain distance of the curtilage the applicant must connect to it. The formula for this is 30m x the number of units, in this case 30 x 6 = 180m, or 30 x 7 = 210m if they include the original unit (which they should do). The EA are requiring this because they want to reduce the number of package or private sewage treatment systems in order to protect the water environment. On this site people living nearby have confirmed that the ground is wet and the water table high so it is unlikely that discharging cleaned water via a land drainage system will be practicable, and the property next door seems to have suffered from surface water flooding originating from this site in the past. The percolation test, required if the mains sewer is too far away, should therefore be carried out before the application is determined. There are plenty of local consultants who will do these and they are working during the covid restrictions. Another reason for a mains connection on sites for travellers is that the occupiers may continually change so often no one takes responsibility for managing the private system, therefore increasing the risk of pollution sometime in the future. The current tank requires emptying every 6 months or so but the increase in numbers that 6 additional units could result in (up to 24 people) will substantially increase the volume of flow into this tank, mainly from washing machine and other ablution water. The cesspit would therefore need emptying much more frequently and this will quickly become difficult to manage. So if there is a main sewer within 180 210m the applicant should be required to connect to it and therefore would not need to go to the expense of getting the percolation tests done and a quote for a PTP. They have filled in the foul drainage form but their answers to the questions are contradictory. South West Water will be able to confirm to the applicant where the nearest main sewer pipe is. 2.2.21

Noise & other nuisances:

Noise

It appears that there are a large number of chickens being kept on the site for business purposes. There should be no, or few, cockerels but there is potential for noise, smell and flies to affect residents both on and off the site. The poultry enterprise needs to be registered with Defra so perhaps the applicant could provide more details of this so that we can determine whether the potential for nuisance is unreasonable and likely to impact on new and off-site residents.

Lighting

The proposed lighting columns using a carriage lamp type bulb holder with led lights are likely to cause local light pollution. The columns are plastic so not substantial enough for long term use. A more suitable system would be low height bollard type lighting, or if columns are used the bulb holder requires shielding and should incorporate a yellow filter so that upwards and lateral light pollution is avoided. 2.2.21

**05/05/2021-** Thank you for the updated information regarding the availability of a foul public sewer in proximity to this site. The requirement is to connect to a foul sewer if there is one within 180m (6 x 30m) of the site and SWW have now advised that the trunk main showing in the main road is not taking foul sewage. Therefore the only option is a private treatment system. We are very concerned about introducing multiple package treatment plants on this site, particularly as percolation testing by a drainage engineer has not been carried out and no information about the groundwater has been provided. It is clear from the presence of two very large ponds and the mill stream close by that the water table is likely to be high in this area; there is therefore a high risk of contamination. Package treatment plants cannot be located close to residential properties, and there must also be proper provision for a soakaway or drainage field in an appropriate location. We first requested more detailed clarification of the arrangements for a sustainable foul drainage system in our original comments in February 2021 and in the absence of this we do not consider that satisfactory provision has been made for foul drainage and would not be able to support any approval at this time.

**03/08/2021-** EHO final comments on proposed foul water treatment system. I have considered the information provided by the applicant and his contractor on 2<sup>nd</sup> August regarding the proposed package treatment plant. I have been to the site and seen where this will be located. There are existing ditches along both the east and west boundaries of the land and it is proposed to discharge the cleaned water into one of these ditches (both of which are usually dry). The ditches then run onto a surface water feature but only in times of heavy rainfall. Therefore cleaned water discharged into them is likely to either soak away or flow away as is usual in these systems. We therefore have no concerns relating to this proposal and recommend that the foul drainage scheme as designed is conditioned in any approval. We have no outstanding environmental health concerns in relation to any of the other matters in the email from the agent

**DCC- Policy and Project Coordinator (Vulnerable and Travelling Communities)-**

Thank you for your letter relating to the above. I am happy to make the following observations in line with National and County Policy, and observations following a site visit to the above location with the applicant on 21<sup>st</sup> July 2021.

Devon has only three local authority Gypsy Traveller sites: Sowton, Exeter; this site is a long-term residential site managed by Elim Housing, which holds a waiting list. Broadclyst, East Devon is managed by Elim Housing is leased by the County Council and offering new pitches are governed by the terms set by the landowner. Haldon, Teignbridge offers the only pitches for those identifying as New Travellers and is managed by Teign Housing.

Whilst accommodation for the settled community is increasing in the South West there is still little provision for Gypsy and Traveller families. There are no agreed/emergency or transit sites in Devon and most of the traditional stopping places have been blocked off or developed for other purposes. Due to this, it is becoming ever more essential for Gypsy and Traveller families to have an authorised stable base from which they may access services such as Health and Education, that the rest of us may take for granted. It also provides the security to travel for economic purpose, knowing that there is an authorised base on return.

I met with Mr and Mrs Dolan and spoke at length about their travelling patterns and history, I can confirm that they also intend to travel for economic purpose in the future and use this private family site as a base, from which to access education and welfare services in between travelling. They meet the definition of Gypsy Traveller for planning purposes and their application should be treated as such. There is a need within the family for 3 extra pitches and this will provide further

pitches for their family who now have families of their own. It is increasingly difficult for this community to go through the planning process without resentment or opposition from surrounding neighbours and community; a lot of this is steeped in the perception of what a Gypsy or a Traveller is, rather than who they are. This family is willing to work with the local authority to overcome any planning issue that might come up and I hope that this be taken into consideration at decision stage. The Communities Team supports the Dolan's in their application.

Small private sites continue to be the best option for local planning and housing authorities in relation to accommodation for Gypsies and Travellers. Meeting this need in Devon is important if the number of unauthorised encampments and unauthorised developments are to reduce across the county, at the same time it allows local planning authorities to fulfil their responsibility to meet the accommodation need alongside other communities in Devon.

The last time a needs assessment was carried out in this local authority area was in 2015. At that point, formulas and techniques were used by an out of county consultancy firm who didn't have the local knowledge and connection to the communities they were making assessments on at that time; it is my opinion working in this role for over 17 years, that the validity of figures being relied on for 2021 just isn't reliable enough to satisfy the need that plainly exists with this family. So, whilst on paper it could be said that the land supply for Gypsy Traveller pitches are being met up to 2024, in reality, it has to be asked, how many of those pitches are going to be deliverable and usable in that time frame? When there is already in existence a site which could be extended by this family, who are willing to work sympathetically with the local authority.

I would urge the decision makers for this application to also consider that if this is refused, not only would the 3 extra pitches not be provided, but there will also be a loss of 3 pitches in the process; this would be such a shame considering the site has been in existence as a Gypsy Travellers site for decades; with so few pitches being granted for this community in comparison with more general housing across the district area.

The County Council has a range of responsibilities in planning matters and, on education, health and welfare grounds this application is supported, recognising the lack of pitches available on authorised sites within Devon.

**SOUTH WEST WATER- 12/03/2021-** Following receipt of a Consultation Request for the above application, South West Water confirm that we hold no objection.

## **REPRESENTATIONS**

At the time of writing this report 22 letters of objection have been received and 6 letters of support, the key issues are summarised below;

1. The council should require evidence of the nomadic lifestyle of the family
2. The scale is too large for the area
3. The proposal would be harmful to the character and appearance of the area by the degree of urbanisation, scale and density
4. The proposed semi-permanent chalets do not match the aesthetic of other buildings in the area or heritage. Surrounding buildings are two storey stone and slate.
5. The roof pitch of surrounding buildings is around 35 degrees, the proposed are flat or negligible incline
6. The countryside in this area is being rapidly eroded e.g. Through expansion of Hitchcocks and Mid Devon Business parks and development at Junction 27
7. The development is visible from the public highway

8. The chalets have poor insulation standards and are not expected to meet sustainability targets
9. Additional use of the driveway by the applicants has already caused big problems in the means by which other residents join the busy public highway
10. The proposed new access would add another access route onto an already dangerous road
11. The application does not relinquish access to the shared driveway, despite the new access proposed
12. There have been two serious accidents and one slight along this stretch of road
13. The grass banks along the lane have been driven on and littered
14. The hardstanding poses an additional risk for surrounding properties
15. Poultry houses have been constructed on site, these are not mentioned in the application
16. The previous permission required the land to be returned to agricultural, this should be enforced
17. Permission for further dwellings was previously refused
18. The applicant has continued with intentional unauthorised development on the site
19. The applicant removed a large proportion of the site's hedgerow and trees without conducting a wildlife report
20. The number of units proposed would dwarf the population at Selgars Mill/ House, change the atmosphere, increase sound pollution and increase pressure on local resources
21. It is unclear why there is a need for doubling the capacity of what is already there
22. The application falls outside the local plan
23. The applicant fails to fit the definition of traveller for planning purposes
24. The needs based argument is unfounded in this application
25. The applicant is the owner of a site in Durham that was granted permission for up to six caravans for gypsy and travellers
26. The development would result in damage to the environment both in terms of local residences and the need to preserve a 'green corridor' between Willand and Uffculme
27. The development dominates the neighbouring properties
28. The existing unauthorised mobile homes have very bright external lights that impact amenities of neighbours and biodiversity
29. The development negatively impacts neighbouring businesses at Selgars Mill and threatens their viability
30. The development is not appropriate in the countryside
31. The layout does not make provision for children's play or even modest garden areas
32. The site does not have an existing watercourse as indicated on the FDA1 form. The wet clay soil is not suitable for soakaway systems. No percolation tests are provided.
33. Concerns regarding increased risk of flooding to neighbouring properties
34. There have been increased incidents of trespassing from people from Pleasant Streams
35. The community burn plastic and other industrial waste on a daily basis which brings toxic fumes to Selgars Mill
36. The dwellings would overlook neighbouring properties
37. The site does not offer safe and convenient access to local facilities
38. The site was never intended to become a permanent gypsy and traveller site
39. Impacts to ecology have not been considered

#### Support comments;

- It is better that we pass these sites and there are more legal sites available than us not having enough sites in the area and force gypsy and travellers into living illegally and causing greater disruption
- The proposal would provide homes for five families in a community
- Everyone has a right to a home
- The encampment is thoughtfully placed

- Pleasant Streams has been a gypsy and traveller site for over 40 years, how is someone else living there different to someone buying a house
- Selgars Mill is now home to multiple families and business so what is the difference in having multiple families here
- The proposal would benefit the community

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

1. Policy and principal of development
2. Highway and access
3. Impact to the character and appearance of the area
4. Design and amenities of future occupiers
5. Impact to the amenities of neighbouring occupiers
6. Flood risk and drainage
7. Ecology and biodiversity
8. Other issues

### **1. Policy and principle of development**

Policy S1 of the Mid Devon Local Plan 2013- 2033 requires development to support the creation of sustainable communities through various priorities including a development focus at the larger towns; promoting sustainable transport by reducing the need to travel by car; by meeting the needs of all sectors of the community including gypsy and traveller pitches; requiring good sustainable design; meeting the challenge of climate change and managing flood risk; conserving and enhancing the natural environment and minimising impacts to biodiversity and geodiversity.

Policy S3 sets out that a five year supply of gypsy and traveller pitches will be allocated on deliverable sites within Mid Devon to ensure that the predicted need for traveller sites will be met. A further supply of developable sites or broad locations for growth will be identified equivalent to ten years of predicted growth. The Housing Authority will seek to provide a public site for gypsy and traveller pitches within Mid Devon, subject to the availability of funding.

Uffculme and Willand are both recognised as villages suitable for limited development within their defined settlement limits. However the site is located outside the settlement limits of both villages and in a countryside location where policy S14 states that development will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It states that detailed development management policies will permit agricultural and other appropriate rural uses including gypsy and traveller accommodation. Policy DM7 relates to traveller pitches and states;

### **1. Planning applications for Pitches and Plots Planning applications for gypsy and traveller pitches, or plots for travelling showpeople, will be permitted where:**

- a) Suitable onsite facilities will be provided including space for children's play;
- b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments; and
- c) The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;
- d) Occupation will be limited to those who meet the Government's published definition of gypsies and travellers, including travelling showpeople or their dependents; and
- e) Safe and convenient access to local facilities is provided.

**Sites with associated employment or storage elements will be permitted where there is**

specific justification and the location, scale, and nature of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.

**2. Provision on allocated sites Gypsy and Traveller pitches on allocated sites (sought by Policies TIV1, CU1, CU7 or CRE5) should be provided on site unless it is demonstrated that off-site provision will achieve an acceptable outcome for Gypsies and Travellers taking into account: 1i) Pitch numbers ii) Site facilities; iii) Accessibility to services, including health and education; iv) Early delivery of serviced pitches or plots which are available for occupation; and v) The provision of an effective mechanism for delivery. Such sites must also meet the requirements of Part 1 of Policy DM7 above.**

The NPPF refers to the Government's planning policy for traveller sites (PPTS) which sets out the government's approach to planning for traveller sites and is a material consideration in planning decisions. In assessing applications for traveller sites the PPTS sets out that;

*Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:*

- a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) that they should determine applications for sites from any travellers and not just those with local connections*

*Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.*

*When considering applications, local planning authorities should attach weight to the following matters:*

- a) effective use of previously developed (brownfield), untidy or derelict land*
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness*
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children*
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community*

*27. If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).*

The Council's land supply records for pitches indicates there are 15 pitches which have been delivered or which are consented and deliverable in the period 2019 – 2024, which meets the GTAA requirement for that period of 6 and the shortfall of 9 from the previous period. However,

this alone would not necessarily mean that other sites cannot be considered. The GTAA is not considered to be an up to date reflection of household needs including households held on the Council's waiting list (and these may have changed since the GTAA was undertaken in 2015). There is also concern with regard to the deliverability of some of the pitches in particular those secured through the outline planning permission for residential development at Creedy Bridge, Crediton (17/00348/MOUT). The condition on that permission is such that the applicant has 5 years from the date of commencement of development on site in which to submit reserved matters for On-Site Travellers Pitches. As such the delivery of these pitches could take over 5 years to be implemented. The DCC response also questions whether the supply of pitches is deliverable. A public site has not been provided in the district and the Council is not able to identify any alternative available site to meet the residential needs of the applicant.

The status of the applicant's and intended occupiers as gypsy and travellers has been raised within representations received. For the purposes of this planning policy "gypsies and travellers" means: Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such. In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters: a) whether they previously led a nomadic habit of life b) the reasons for ceasing their nomadic habit of life c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

The DCC Policy and Project Coordinator (Vulnerable and Travelling Communities) Officer has been to site and spoke to the applicant at length about their travelling patterns and history, and has provided a response to the application which confirms that they consider that the applicant meets the definition of Gypsy Traveller for planning purposes and their application should be treated as such (see consultation response above). There is a need within the family for 3 extra pitches and this will provide further pitches for their family who now have families of their own.

The site is located in a countryside location. Concerns have been raised in respect of the accessibility of services by sustainable means. The sustainability and accessibility of the site has been considered in relation to previous applications. The assessment made at that time has been taken into account and further considered in light of the current situation and policy position. The application site lies approximately 0.9km from Uffculme and 1km from Willand. Uffculme has a number of services and facilities including primary and secondary schools, pub, church, post office, shop and Magelake Hall. Willand also provides a variety of services including primary school, village hall, churches, church hall, pub, football club, shop, post office, doctors surgery, pharmacy and hair dressers. There is no footpath along the length of the Class II road providing access from the site to Willand or Uffculme. The road is relatively straight with free and fast flowing traffic. There is a regular bus service in both directions and onwards travel to Cullompton and Tiverton is achievable.

At the time of the 11/01238/FULL the sustainability of the site and accessibility to local services was considered. The officer report states; "The provision of these bus services and the proximity of the site to both villages of Willand and Uffculme and beyond to the market town of Cullompton make the realistic availability of walking, cycling and using public transport to access local services high. [...] the proposed site is considered to be in a location which is accessible to other forms of transport rather than a location which are reliant on the private car". Whilst the appeal was dismissed, the Inspector also did not raise objection to the principle of development in this location.

At this time, in the context of current policy position, the guidance in the PPTS and NPPF, it is considered that the site location would provide safe and suitable access to local facilities in accordance with policy DM7.

The representations make the case that the site should be returned to agricultural use as that is what the previous permissions required once the occupation by the previous occupier was no longer required. The reasons for that condition relate to the policy position at that time which restricted residential development in the countryside but was justified by the “special needs for gypsy accommodation”. Notwithstanding the condition on the previous permissions, it would not prevent an application for planning permission being brought forward and which should be considered on its merits at this time in accordance with the relevant development plan and any other material considerations.

## **2. Highway and access**

Policy DM3 requires development to ensure safe access to the transport network. The application proposes a new access from Uffculme Road to the north. The proposed access is 7.3m wide and visibility splays are proposed of 2.4m by 215m. The existing access would be closed by planting.

The submitted transport technical note sets out that a development of 12 units on the site was previously considered and not refused on highway grounds. It considers that a 12m rigid vehicle would be able to enter and exit the proposed access and turn within the site. On this basis it considers that the proposed development is acceptable in terms of highway impacts.

The Highway Authority have confirmed they have no objection to the scheme subject to the provision of visibility splays of 215m in both directions. The Highway Authority are satisfied that visibility splays of 215m can be achieved and recommend that these are secured by condition.

There is sufficient room on site for the provision of parking in accordance with policy DM5.

Whilst concerns have been raised with regard to highway safety, having regard to the comments of the Highway Authority it is not considered that the proposal would result in any unacceptable adverse impacts in terms of highway safety or capacity issues. The proposal includes provision of additional hedgerow planting to block up the existing access which will reduce the level of movements along the private lane. This can be secured by condition.

## **3. Impact to the character and appearance of the area**

The application scheme proposes to provide the six pitches and associated access/ parking areas over a site area of approximately 6500sqm. The scheme partly uses an area at the south which has previously been used for gypsy and traveller occupation but significantly increases the site area further north and west. The site area is generally rectangular. It is bordered to the east by a substantial hedgebank with some tree planting, which borders the private lane to Selgars Mill/ Selgars House. The proposed scheme would impact the character and appearance of the site, particularly in terms of the change in character of the currently undeveloped area to the north as a result of the proposed hard surfacing and paraphernalia associated with the proposed residential use of the site. The proposed new access would also involve alterations to the existing northern boundary and open up views into the site from Uffculme Road. It is not disputed that the development will have an urbanising impact on this part of the countryside. The scheme proposes to enhance the planting along the northern boundary to infill any voids, the existing hedgerow to the east would be retained and additional native planting is proposed to infill the current access opening. A significant length of new native hedgerow on a bank is proposed to the east boundary which is considered to provide an enhancement to the character and appearance of the area and

would help to contain impacts of the development in views from the west. The existing large trees within the site are proposed to be retained and additional landscaping is proposed around the south west corner. The proposed landscaping to the site boundaries are considered to strike a suitable balance between safeguarding the character and appearance of the area and the amenities of neighbouring occupiers without resulting in an isolating impact for future occupiers.

The proposed lighting has been removed from the scheme and the applicant's agent has confirmed they do not intend to provide any external lighting on the site as part of the application scheme. It is considered necessary to control the use of external lighting by condition in the interests of the character and appearance of the area, the amenities of neighbouring properties and ecology interests.

The site is located in landscape character type 3E, Lowland Plains, the special characteristics of which include an arable landscape, agrarian character, notable estates and manor houses, intact orchards, wide open spaces with great landscape views, historic interest with archaeology and celtic settlements, roads following land contours and valued hedgerows with mature hardwood trees in hedgebanks.

The site is clearly located in a countryside location. Uffculme Road links Uffculme to Willand, the area surrounding the site is predominantly of rural nature. However between the villages of Uffculme and Willand there are some existing developments which to some extent have altered the character, appearance and visual amenities of the surrounding area, this includes substantial commercial developments at both Langlands and Hitchcocks Business parks.

Overall, whilst it is considered that the development would inevitably have an impact on the character and appearance of the site itself, it is considered that subject to appropriate conditions to secure appropriate landscaping and to control external lighting of the site, the impact would be acceptable. Having regard to the siting and topography of the site within its context, it is not considered that the proposed development would have a significant impact on the wider landscape of the countryside.

#### **4. Design and amenities of future occupiers**

The pitches are proposed to be sited in a linear arrangement. Each pitch includes two parking spaces and external space. Whilst there is limited designated garden areas, each pitch has reasonable external space and a grassed area. The layout is considered to provide an acceptable level of amenity for future occupiers and is not considered to result in overdevelopment of the site. Whilst concern has been raised regarding the proximity of the site to livestock it is noted that no objections have been raised on this basis by Public Health and it is considered that a suitable level of amenity would be achieved for occupiers.

Concerns are raised regarding the sustainability credentials of the mobile homes that would be occupied on site. However the insulation value of the mobile homes is not the only consideration in the sustainability of the scheme and overall the principle of the provision of gypsy and traveller pitches is considered to be sustainable in this location.

#### **5. Impact to the amenities of neighbouring occupiers**

Policy DM1 states that development should not have an unacceptably adverse impact on the privacy and amenity of the proposed or neighbouring properties or uses. Policy DM7 requires that applications for gypsy and traveller plots will not have harmful impacts on local amenity. The Governments PPTS also seeks to ensure the interests of the settled community are respected and to reduce tensions between settled and traveller communities in planning decisions.

The nearest neighbouring residential property is located at Selgars House adjacent to the south boundary. Selgars Mill is located to the south east and shares the access drive. Selgars Cottages are located to the east. The nearest property to the west is approximately 280m distant.

Following discussions with the applicant's agent the scheme has been amended to remove pitch 6 from the south west corner of the site to reduce the impact to the amenities of occupiers of Selgars House. The location of pitch 6 as now currently proposed, is similar to the unit which has existed on the site under the previous permissions. As such and with the addition of obscure glazing to the windows on the south elevation it is not considered that there would be any significant adverse impacts in terms of loss of privacy or overlooking arising from the permanent siting of a pitch in that location.

Concerns have been raised regarding the impacts arising from the poultry unit that has been erected on the agricultural land adjacent to the application site. The development that has been undertaken in that part of the land does not form part of this application and can be dealt with through planning enforcement and Public Health as necessary.

The relocation of the access will reduce traffic movements along the private lane. Concerns in respect of flood risk and drainage implications are considered further below.

The Council's Public Health Team have not raised any objections in terms of noise or other nuisance. Overall, having regard to the siting, scale and design of the proposed development in its revised form, it is not considered that the proposed residential use would result in an unacceptable impact to the amenities of neighbouring occupiers and it is not considered that the scale of the proposal would dominate the nearest settled community.

## **6. Flood risk and drainage**

Policy S9 requires that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through the provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk and avoiding an increase in flood risk elsewhere.

The site itself is located in flood zone 1. However the site is located in relatively close proximity to flood zones 2 and 3 to the south of the site as well as the mill leat and pond associated with Selgars Mill. The site area extends to approximately 0.65 hectares, of which a significant proportion is proposed to be hard surfaced to provide access, parking and surfaced areas to site the proposed mobile homes on each pitch. A small part of the site in the south east corner is understood to have been previously hard surfaced as part of the previous occupation (see planning history). The application proposes to manage surface water run off from the mobile home units to a soakaway in the agricultural field to the west. It is proposed that the access and turning areas will be formed of porous asphalt and the pitch areas will be lined and a golden flint shingle laid. The implications to drainage and flood risk have been discussed with the Lead Local Flood Authority who are satisfied that the proposal is not likely to result in increased flood risk elsewhere. Their advice is that the drainage implications from the site can be adequately managed by further details to be submitted by condition. At the time of writing this report officers are awaiting advice

from the Lead Local Flood Authority as to the wording of this condition and this will be reported to members as an update.

## **7. Ecology and biodiversity**

Policy S1 requires development to minimise impacts on biodiversity and provide a net gain in biodiversity. Similarly policy S14 in relation to development in countryside locations requires development to preserve and where possible enhance biodiversity.

The applicant has submitted a preliminary ecological appraisal in support of the application. The hedgerows on the site were considered to provide opportunities for foraging and commuting bats, the local surroundings provide good foraging and commuting habitat that is largely unlit. The ecologist considers that the proposals are low impact in relation to bats as there will be no significant loss of habitat but that the development has potential to devalue and degrade boundary habitats through light spill. The scrub and hedgerow were considered to offer suitable nesting habitat to common and widespread urban species.

The report confirms that no further survey work is required at this time and makes recommendations for mitigation including a 2m protection zone around retained hedgerow habitat, precautionary measures in respect of any external lighting and the timing of works in relation to habitat removal (nesting birds). The application proposes the provision of approximately 110m of new native hedgerow planting and infill planting to existing hedgerows and therefore a significant net gain in the extent of hedgerow habitat can be secured. The ecologist also recommends that enhancements to biodiversity are achieved through the provision of three bird nesting boxes and two bat boxes should be installed on trees on the site. On the basis that the appropriate mitigation and enhancement measures are secured by condition it is considered that the proposed development is not likely to result in harm to protected species and a net gain in biodiversity can be achieved in accordance with policies S1 and S14 of the Mid Devon Local Plan and government advice in the NPPF.

## **8. Other issues**

**Intentional unauthorised development:** The representations suggest that the occupation of the site and ground works that have been carried out are intentional unauthorised development. Intentional unauthorised development was set out as a material consideration when determining retrospective planning applications from 31<sup>st</sup> August 2015. The policy statement does not define what intentional unauthorised development is, the explanation relates to developing land without prior authorisation prevents measures being taken to mitigate or limit harm. In this case the applicants have carried out some ground works and are occupying part of the site without planning permission. The actions that have been carried out have clearly caused friction with the local community. However in this case, it is considered that the unauthorised development have not prevented the proper application of planning policy and the impacts of the development are considered to be appropriately mitigated through the application scheme and details that can be secured by condition.

**Contaminated land:** The Council's Public Health team have advised that a contamination investigation and remediation strategy is required to ensure that risks from land contamination are suitably managed to prevent harm to future land users, neighbouring land, water and ecology. This is secured by condition.

EIA: Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

Public sector equality duty: In assessing this application the Council has had regard to the requirements of the public sector equalities duty within the Equalities Act to have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In respect of this application, the proposals relate to the provision of 6 traveller pitches for residential occupation by gypsy and travellers. The applicants share a protected characteristic of their race as gypsy and travellers which are not shared by the settled community who live in proximity to the site. Race is a protected characteristic identified by the Equalities Act 2010. The relationship between the traveller community and the settled community has been considered in the assessment of the application. The application is considered to be supportable in accordance with the development plan including policy DM7 which specifically relates to the provision of gypsy and traveller pitches. The LPA has worked with the applicants to revise the scheme to provide a policy supportable scheme and to achieve an acceptable impact to the settled community.

## **CONDITIONS**

1. The date of commencement of development shall be taken as 4<sup>th</sup> January 2021, the date the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Within 3 months of the date of this decision and prior to any further works being undertaken on site, there shall be submitted to and approved in writing by the Local Planning Authority, a phasing plan which shall include a programme of implementation of the approved scheme including the proposed access works, closing up of existing access, provision of drainage infrastructure and the landscaping (to be completed in accordance with details approved by condition 13). Thereafter the development shall be carried out in accordance with the approved phasing plan unless otherwise agreed in writing by the Local Planning Authority.
4. Prior to any further works being undertaken on site, a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, shall be submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:
  - a. A preliminary risk assessment which has identified:
    - I. all previous uses
    - II. potential contaminants associated with those uses
    - III. a conceptual model of the site indicating sources, pathways and receptors

- IV. potentially unacceptable risks arising from contamination at the site
- b. A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
  - c. The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 4 and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 4(c). This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4(d).

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. 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 Land Contamination Risk Management (LCRM).

7. Prior to any further works being undertaken on site to implement the permission hereby approved the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

8. No works relating to the formation of the new access shall take place until details of the layout and construction of the access have been submitted to and approved in writing by the County Planning Authority.

9. The site access road shall be widened and maintained thereafter to not less than 6 metres for the first 10 metres back from its junction with the public highway and shall be provided with 10 metre kerb radii at the junction.

10. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 600mm above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 215 metres in both directions.

11. The retained hedgerow habitats on site shall be protected for the duration of the works on site by the installation of a protective fence details of which shall be submitted to, and approved in writing by, the Local Planning Authority prior to installation on site. The fence shall be installed at least 2m from the base of the retained hedgerows for the duration of the works on site.

12. The development hereby permitted allows for the provision of 6 pitches only. Occupiers of this site will need to comply with the definition of a gypsy or traveller, being persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

13. No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended shall be stationed on the site at any time. Any caravans positioned on the site shall be capable of being lawfully moved on the public highway.

14. Within 3 months of the date of this decision, notwithstanding the information submitted, a scheme of hard and soft landscaping including details of a the proposed hedgerow planting and a hedgerow establishment and maintenance plan, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding and turfing comprised within the approved scheme, including the proposed new hedgerow and 'additional planting' depicted on the approved plans, shall be carried out in accordance with the details and timing agreed in accordance with the phasing plan to be approved in accordance with condition 3. Any trees or plants, including existing specimens to be retained, which within a period of 5 years from completion of the development

die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

15. Within 3 months of the date of this decision, there shall be submitted to and approved in writing by the Local Planning Authority details of the proposed foul drainage systems including arrangements for future maintenance. Only such approved systems shall be used for the management of foul drainage from the development hereby approved.

16. The development shall be undertaken in full accordance with the recommendations, mitigation and enhancement measures contained in the submitted preliminary ecological appraisal (Western Ecology, dated 3<sup>rd</sup> August 2021). The proposed enhancement measures as set out at section 7 of the report shall be provided within 6 months of the substantial completion of the development.

17. Prior to the installation of any exterior lighting on the site full details including design, siting and illumination-type shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed and operational.

18. Within 6 months of the date of this decision, the windows within the south elevation of the caravan on pitch 6 shall be obscure glazed in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. The obscure glazing shall be retained in perpetuity.

## **REASONS FOR CONDITIONS**

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the provision of access, drainage and landscaping features in a timely manner in relation to the provision of the residential pitches in order to safeguard the character and appearance of the area, the amenity of neighbouring occupiers in accordance with policies S14, DM1 and DM7 of the Mid Devon Local Plan 2013- 2033.
4. To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
5. To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
6. To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
7. In the interests of highway safety and the general amenity of the area.

8. To provide adequate visibility from and of emerging vehicles.
9. To ensure the layout and construction of the access is safe and suitable
10. To minimise congestion of the access
11. In the interests of the character and appearance of the area and biodiversity in accordance with policy S14 of the Mid Devon Local Plan 2013-2033.
12. For the avoidance of doubt and to outline the special circumstances for this development within a countryside location in line with Policy S14 of the Mid Devon Local Plan 2013-2033.
13. In order to protect the character, appearance and general amenity of the area of countryside in accordance with policy S14 of the Mid Devon Local Plan 2013-2033.
14. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.
15. To ensure foul drainage is appropriately managed in the interests of the environment and the amenities of neighbouring occupiers in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.
16. In the interests of nature conservation and in accordance with the guidance contained in the National Planning Policy Framework.
17. To safeguard the character and appearance of the area, the amenities of neighbouring occupiers and ecology in accordance with policies S14 and DM1 of the Mid Devon Local Plan 2013-2033.
18. In accordance with the details shown on the submitted block plan and to safeguard the amenities of neighbouring occupiers in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.

#### **REASON FOR APPROVAL**

**The proposed change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works is considered to be supportable in policy terms. It is not considered that the proposed development would result in significant harm to the character and appearance of the rural area subject to the imposition of planning conditions or detrimentally impact amenity of any neighbouring property. The proposed development is considered to be acceptable in terms of its impacts to highways, drainage and ecology. Overall it is considered that the proposal is supportable in accordance with policies S1, S3, S9, S14, DM1, DM3, DM4, DM5, DM7 of the Mid Devon Local Plan 2013- 2033 and government advice in the NPPF and Planning Policy for Traveller Sites.**

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.



# Agenda Item 9

Application No. 19/01679/FULL

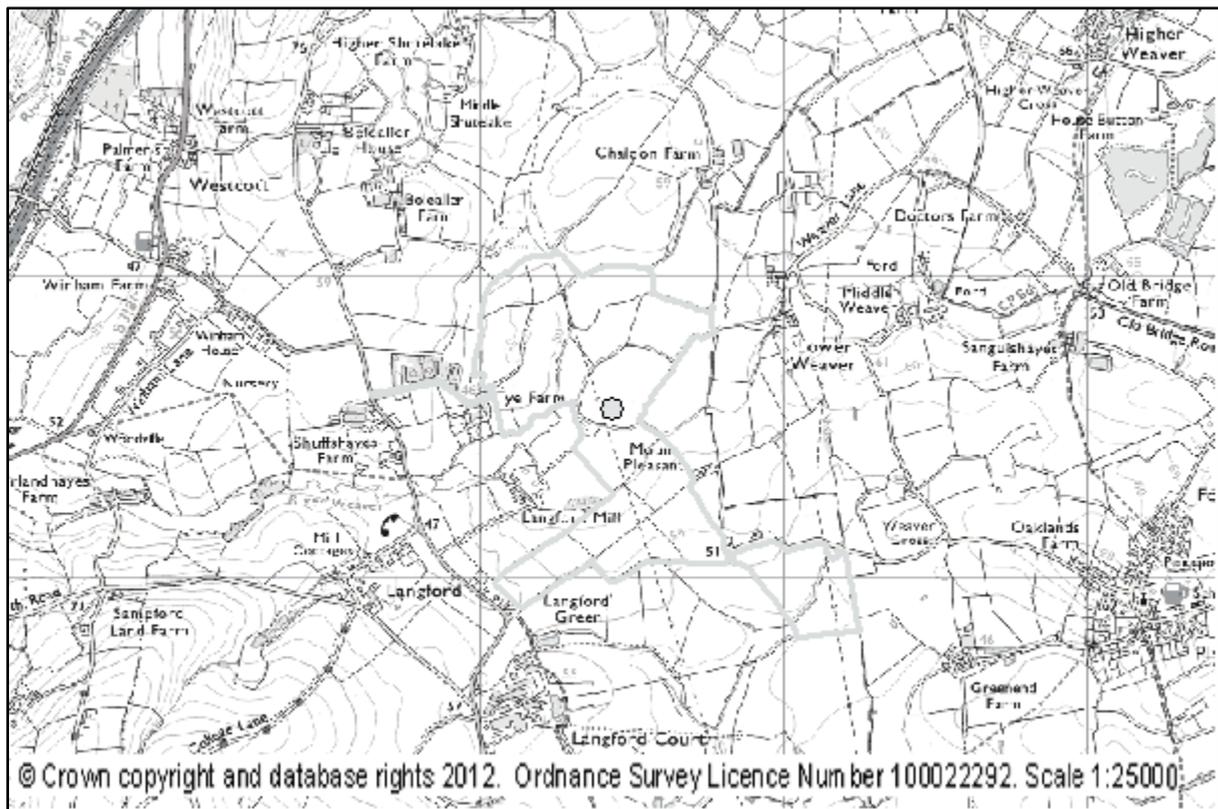
Grid Ref: 303437: 103555

Applicant: Mr McAllister, JBM Solar Projects 2 Ltd.

Location: Land at NGR 303437 103555  
East of Langford Mill and Tye Farm  
Langford  
Devon

Proposal: Construction of ground-mounted solar PV panels to generate up to 49.9MW (Site Area 60.78ha) and battery storage facility together with all associated works, equipment and necessary infrastructure.

Date Valid: 9<sup>th</sup> October, 2019



**PLANNING COMMITTEE**

**18 August 2021**

## **PROPOSED DEVELOPMENT**

This planning application proposes the installation of a 49.9MW solar farm comprising ground-mounted solar PV panels, battery storage facility, and associated plant, infrastructure, and other works.

The site is approximately 61ha in area and comprises farmland located in open countryside. The site is located to the north east of the village of Langford, north west of Plymtree and north of Clyst Hydon. The landscape of the site is undulating to the flood plain, though there are some steep slopes within the site, (approximately 11%).

An unnamed road runs in a north – south direction in close proximity to the western boundary of the site. Three access points are proposed into the site from the public highway. Two will be to the south of the site and one to the north west of the site. The construction access will be from Tye Farm at the north-west part of the site. The site is bisected by an unnamed road.

The River Weaver flows through the site in an east west direction. Parts of the site are located in Flood Zones 2 and 3, including the floodplain.

The proposed solar panels (PV) will be laid out in rows on an east –west axis, facing south with a 15 degree orientation from the horizontal to maximise efficiency. The maximum height of the panels will not exceed 3m. Plant with other equipment and access tracks will be located around the site. This supporting equipment will include 15 inverter cabins, including one with switch gear.

The battery storage facility will be located in the south eastern corner of the site. There will be battery units in containers, a storage container and an inverter cabin. This area will also house the 132 kv electricity substation for the site. There will be underground cabling to link the development to the substation.

## **REASON FOR DEFERRAL**

At Planning Committee on 31<sup>st</sup> March 2021 members RESOLVED that the application be deferred for a Full Committee site visit to be undertaken and returned to committee accordingly with further information to come forward within a report to include the environmental impact of the application (question 2), details of the biodiversity plan (Questions 16-18), land management (question 9), mitigation of flood risk (questions 6, 7) and the shielding of the site (question 9). Members were also requested to inform the Development Management Manager of any further information they would like included in the additional report by Friday 9th April 2021.

The additional information was tabulated as a set of 20 questions or clarifications which encompass all the known outstanding matters and will be referred to as questions for ease of reference. Whilst some of these fall within the above categories, other questions fell under the generic headings Access and Highways (questions 4 and 5), Heritage and Visual Impact (questions 11,13-15), Planning

Obligations (question 10) and Planning Balance (question 8). The remaining questions relating to the enforcement, wording and monitoring of conditions (question 1 and 19), and measurement of solar farm outputs (question 3) In addition were non-specific questions related to an updated relevant condition (question and clarification of representations set out above (question 20).

## **REASON FOR FURTHER DEFERRAL**

At Planning Committee on 14th July 2021 It was RESOLVED that Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of:

- Adverse impact on the landscape;
- Adverse impact on the Grade 2 Langford Court;
- Additional loss of high grade agricultural land

## **ORIGINAL OFFICER RECOMMENDATIONS**

As set out in the updates report for Planning Committee 14<sup>th</sup> July 2021, the officer recommended approval subject to conditions as revised and contained within the said update report.

Please be advised that the original and updated report is also appended to this report.

*Financial Implications:* At this time there are no financial implications to the Council. Should Members decide to refuse the application, the applicant may lodge an appeal against the Council's decision. In addition the applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations. If the Inspector found that the Council had behaved unreasonably in refusing the application, the Council would be required to pay the applicants appeal costs.

*Legal Implications:* The report identifies the views of the highway authority as statutory consultee in the planning process. If members resolve to refuse the application on highway (or other) grounds they must be able to clearly justify each reason for refusal. There would be no support at the appeal from the Highway Authority.

*Risk Assessment:* If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour. Those costs could be significant in the event of the appeal being heard by public inquiry.

*Equality Impact Assessment:* Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share

it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons with protected characteristics have been identified in the determination of this application.

### **Relationship to Corporate Plan:**

#### *Environment*

Encourage "green" sources of energy, supply new policies and develop plans to decarbonise energy consumption in Mid Devon

#### *Impact on Climate Change:*

Section 70 (2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in determining a planning application, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 11 of the Framework. The climate emergency shall be considered through existing planning policies and any subsequent development plans.

## **INTRODUCTION**

At Planning Committee on 14th July 2021 It was RESOLVED that Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of:

- Adverse impact on the landscape;
- Adverse impact on the Grade 2 Langford Court;
- Additional loss of high grade agricultural land

## **UPDATED POLICY INFORMATION**

The National Planning Policy Framework was updated since the matter was before members on 14<sup>th</sup> July 2021. Accordingly, certain paragraphs of the NPPF where quoted will be updated in this report.

## **CONSIDERATION OF THE PROPOSED REASONS FOR REFUSAL**

### **Adverse Impact on the Landscape**

Natural England commented that the proposed development is for a site within 6km of the Blackdown Hills Area of Outstanding Natural Beauty (AONB) and has triggered Natural England's Impact Risk Zones for solar developments greater than 10ha. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Natural England advised that the decision should be guided by paragraph 172 of the National Planning Policy Framework (this is now paragraph 176 and has been amended to:

*“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues...The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.*

The NPPF continues with paragraph 177 stating:

*“When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated”.*

Advisory notes in the NPPF advise that for the purposes of the above paragraphs that whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

Natural England note that the statutory purpose of the AONB is to conserve and enhance the area's natural beauty. They remind us that the SPD 'Solar pv developments in the landscape 2016' suggest that all landscapes in Mid Devon are sensitive to very large schemes (>15ha).

To recap, the 31<sup>st</sup> March 2021 report to the Planning Committee noted that the applicant submitted a Landscape Visual Impact Assessment as part of the application, and this was considered against the policies of the Local Plan 2021 – 2033 and the Council’s Supplementary Planning Document (SPD) –Solar PV Developments in the Landscape (2016).

The SPD identified three main principles against which a solar PV development must be considered against

Principle 1: Solar PV developments should minimise their effects on the landscape through sensitive siting and design.

Principle 2: Solar PV development should be of a size and scale appropriate to the landscape, with particular regard to its sensitivity to change as a result of such development.

Principle 3 Solar PV development proposals should include an assessment of landscape and visual effects, taking into account the location of the site's landscape sensitivity as well as that of adjoining Landscape Character Types and Areas (where appropriate). The cumulative effects of existing and consented solar PV development in the surrounding area should also be considered.

The case officer acknowledged that the proposed solar farm would introduce a new and uncharacteristic feature to the landscape of this part of Mid Devon which may have an impact upon the character of the area. The SPD assesses that the host landscape (Lowland Plains) has a landscape with medium sensitivity to solar PV development – although it is highly sensitivity to very large solar PV developments (such as the proposal).

*“Though it should be noted that the SPD is a high level guidance documents and should not replace an individual site assessment for a proposal of this kind”.*

The applicant submitted a Landscape Visual Impact Assessment for the solar farm. The applicant considered that the visibility of the proposal would be limited by the surrounding landforms of the rolling countryside, the intervening vegetation and the distance of the site. In addition the low profile of the panels would not be easily perceptible in most views from publicly available viewpoints, which are limited in number.

*“Following on from this the Council had an independent review of the LVIA carried out due to the size of the development within the Mid Devon rural landscape”.*

The independent review concluded in the wider landscape, the development would result in the change of rural character over an extensive area of the local landscape and would result in the introduction of new, uncharacteristic elements into the landscape. While the arrays would be noticeable in the local landscape, their full scale would only be perceived in a few locations on high ground at some distance from the site. In the local area, existing tree growth, substantial hedgerows and the generally flat topography would help to mitigate the overall scale of the proposal.

Importantly the case officer advised that:

*“The Visual effects are considered to be in line with those predicted in the LVIA, with the exception of VPs 5 (Langford Court) and 6 (Hill west of Clyst Hydon), where effects are assessed as major adverse and moderate/major adverse respectively. It is acknowledged that the introduction of PV solar arrays at this scale would introduce a prominent new element into the view behind Langford Court ( Grade II\*) The nature of the view would change from one of typical rurality containing only agricultural and natural features to one where PV solar array was evident and prominent. The view would be of a rural, farmed landscape containing PV solar array as a defining element.*

*The proposal overall would lead to lesser landscape and visual effects than might be predicted from the SPD assessment of the host landscape. As a result, it is considered that further mitigation (other than reducing the overall scale of the proposal) would have little effect on further reducing landscape or visual effects”.*

It should be noted that the independent review did not disagree with the LVIA conclusion in relation to VP7 from the edge of Plymtree and taking in Langford Court in the mid distance. It is considered that there would be a minor/ moderate impact on the landscape. The proposed solar farm battery storage and substation would be distinguishable in the mid-ground. Proposed planting would further screen this area over time.

In conclusion, the case officer advises that:

*“Overall the proposal will have a moderate/ minor impact upon the landscape of the area, though there are areas of concern with two of the viewing points with major and moderate/major concerns. Taking the 61ha site as whole it is considered that the harm identified with VPs 5 and 6 is not sufficient to warrant the refusal of the development on impact to the landscape character”.*

However, Natural England also note that that the proposal includes maintaining established field boundaries, planting native hedgerows and trees, enhanced wildlife corridors through the site and new species rich grassland around the panels and our advice is that any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP). There may also be the potential for the development to have a wider positive impact by financially contributing to local environmental / social initiatives in the Parishes affected to help connect people and wildlife.

In addition within the Environment Agency response includes the advice that ‘any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP). The applicants have advised that that they consider the use of a LEMP to be good practise on its sites, and would be content with a pre-commencement condition requiring submission of, and the LPA’s written approval for, a LEMP. Accordingly, officers added a LEMP as an additional condition (no. 22) as set out in the update report for 14<sup>th</sup> July 2021 Planning Committee.

### **Adverse Impact on the Grade II Listed Building Langford Court**

To recap, Members noted Historic England’s response which in reference to Langdon Court that they were not entirely in agreement with the heritage statement.

They also note that Langdon Court, a grade II\* late medieval (and later) house has the potential for its setting to be most directly affected. This is due to its position 350m from the nearest extent of the solar array, and the fact that the array extends across a considerable extent of landscape which forms a backdrop to the north of the Court.

However the final paragraph of Heritage England’s response states that:

*“We are satisfied that your own specialists can take an informed view of the level of harm that might occur to the setting of Langford Court once a site visit has been made, and it is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. If you would like detailed advice from us, please contact us to explain your request”*

Members note that the Conservation Officer in his last paragraph of his response in summary suggests that the proposal would result in registerable harm to the significance and setting of the grade II\* listed Langford Court which must be given considerable weight.

To recap, the Committee report noted that there are no designated heritage assets within the site; however Langford Court, a Grade II\* building is a heritage asset outside but in close proximity to the development site. This heritage asset requires the Local Planning Authority to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. The importance of considering the impact of new development on the significance of designated heritage assets is dealt with in section 16 of the NPPF.

This section of the NPPF advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm requires clear and convincing justification. However the NPPF does explain that the setting is not fixed and may change as the asset and its surrounding evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Langford Court is a Grade II\* house, which was originally the centre of a 465 acre estate which over time the grounds have been divided to accommodate an intensive agricultural regime as well as now being used as two separate dwellings,

The Committee Report dated 31<sup>st</sup> March 2021 explains:

*“consideration of harm to the setting of Langford Court by the solar farm, must be seen within the context of the setting of the Court which has been altered by the agricultural buildings. It is clear from the submitted Heritage Assessment that the overall views of the solar panel array from Langford Court itself would not cause harm to the setting of the house. Both Historic England and the Council’s Conservation officer state that the issue is the impact of the location of the solar panel array in the south eastern part of the application site upon the setting of Langford Court.*

*It has already been recognised through the LVIA discussion that the view from the west towards Langford Court (to the east) will change from the house with a rural landscape to the house with a back drop of the solar panel array. This view has been designated as a major adverse view upon the landscape. In contrast the view from the edge of Plymtree looking east towards Langford Court and over the array has a moderate impact on the landscape.*

*There is no doubt that the introduction of the solar farm in this location will have an impact upon the setting of Langford Court, in particular when looking from the west to the east. Having reviewed the setting and taking account of the consultations it is considered because of the distance, the visual impact of the panels would be limited and would be a small part of the wide countryside setting of Langford Court, the overall impact would be less than substantial harm”.*

With regard to weighing the balance the Committee Report goes on to explain that:

*“Paragraph 196 of the NPPF states that ‘where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’. This is reiterated by Local Plan policy DM25 (d). In terms of the public benefit the solar farm of this size will generate a significant amount of electricity from renewable sources. In context the proposed solar farm can meet the energy needs of approximately 10,077 homes in the Mid Devon District. This would be a substantial benefit to Mid Devon and would mean that Mid Devon would be contributing to the aims of Devon Climate Emergency Response Group by reducing carbon emissions. It should also be noted that the scheme would represent a substantial investment of £40,000,000. The development will also support between 70 and 80 direct and indirect jobs during the construction phase and a smaller number of jobs when the solar farm is operational. Taking account of the public benefit of the scheme in the production of renewable energy balanced with the less than substantial harm impact of the solar farm on the setting of Langford Court, it is considered that the proposal on balance accords with Local Plan policies DM2 and DM25 and the provisions of the NPPF”.*

It is considered that the heritage and visual impact matters have been satisfactorily addressed and that the officer had come to the view of harm being less than substantial in weighing up the overall impact of the solar farm on Heritage assets. In applying the balance with regard to less than substantial harm against the public benefits of the proposal, it is considered that this was argued clearly both in this section and in the Planning Balance section at the end of the Committee report of March 31<sup>st</sup>. Accordingly, officers consider that there is nothing substantive further to add.

For information paragraph 196 of the NPPF 2019 is now paragraph 202 of the NPPF 2021.

### **Additional Loss of agricultural land**

Natural England note that from the documents accompanying the consultation that the application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' agricultural land (BMV) (paragraph 112 of the National Planning Policy Framework).

For information this is now paragraph 114 of the revised NPPF

Natural England go on to note that the Agricultural Land Classification report (Davis Meade Agriculture October 2019) indicates that the land affected is predominantly Grade 3b and not therefore BMV agricultural land. Accordingly, no detailed comments in relation to agricultural land quality and soils, was made by them.

They note that the proposed panel arrays would be mounted on steel posts driven into the ground and that no substantial areas of concrete construction would be required, with the exception of foundations for the Inverter, the sub-station buildings and the battery storage facility, meaning that the panel arrays could be removed when planning permission expired with no likely permanent loss of agricultural land in the long term.

They also advise that soil would be disturbed in some parts of the site through the construction of the switch station and access tracks and installing of buried cables this equates to a relatively small area and much of the soil disturbance is likely to be reversible during decommissioning.

*“Based on the information provided, the agricultural use of the land would subsist alongside the proposed PV panels through the grazing of sheep and that the land would be restored to full agricultural when planning permission expired (approximately 40 years)”.*

The case officer in her 31<sup>st</sup> March 2021 report to planning Committee, notes that the stance taken by the NPPG is to encourage the effective use of land by focusing large scale solar farms on previously developed land and non-agricultural land:

*“Paragraph 13 of the NPPG goes on to state 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”.*

The NPPF defines the best and most versatile agricultural land as being land in Grades 1, 2 and 3a of the Agricultural Land Classification and the implication is that development should use the poorer quality land paragraph. The case officer notes that:

*“The application is supported by an Agricultural Land Classification report (ALC) undertaken by qualified expert, who confirms that the proposal would utilise 17 fields making up 61ha, with 15 fields of Grade 3b, 1 fields of Grade 4 and 1 field of Grade 5. This means that the site comprises of, at best moderate quality agricultural land, to poor quality and very poor quality agricultural land; therefore the proposal does not result in the loss of good quality agricultural land, and there would be no objection to the use of this land with Grades 3b, 4 and 5 of Agricultural classification”.*

In summation:

- The site area for the proposal will cover 61ha, it can only be described as substantial.

- The solar farm would be in situ for a 40 year period and would not result in the long term loss of agricultural land
- The solar panels are to be secured to the ground with steel piles with limited soil disturbance, which means that the panels can be removed in the future with no permanent loss of agricultural land quality.
- Whilst the construction of the substation and other buildings may permanently impact the agricultural land, but this would be for relatively small areas within the whole development area.
- The proposal also includes the planting of grassland around the solar panels for grazing of animals and this would allow for a continual agricultural use during the anticipated 40 year operation of the solar farm.

It must be further noted that this reason for deferral was not present as a reason for the initial deferral nor in the additional questions posed by members which was dealt with in the report to Planning Committee on 14<sup>th</sup> July 2021.

Overall it is concluded that it would be difficult to justify a refusal of the proposal on the grounds of the impact upon the agricultural land; and that the proposal complies with policies S1, S9 and DM2 of the Local Plan and national policy in respect of agricultural land.

### **Other Matters**

One of the factors with regard to climate change policy is that meat consumption per head should be significantly reduced. The applicant as a beef farmer would therefore need to take this into account and the proposed development would provide an alternative land use. The quality of the agricultural land may limit the number of crops that may be able to be grown.

The role of a landowner is not to maintain the status quo; it is to utilise the resources we have available to provide social, economic and environmental value for both current residents and for future generations. In supporting this application for renewable energy in Mid Devon; it demonstrates a commitment to the young people of Devon and the future of our county, at a time where we are still in a fortunate enough position to be able to make a positive impact.

The Langford Solar Farm represents a vital addition to the local community - supporting energy for 10,000 Mid Devon homes - at a time of considerable local growth, not least from the proposed Culm Garden village. The Solar Farm will benefit the local community through providing clean, safe and sustainable energy, with an annual CO2 emissions reduction of over 20,000 tonnes. This aligns with guidance from the National Planning Policy Framework that the planning system should “support renewable and low carbon energy and associated infrastructure”.

### **Planning Balance**

Members note the large scale nature of this scheme as defined in the MDDC Solar PV developments Supplementary Planning Document (SPD). This raises the question of how to employ the planning balance for such a scheme in this location.

The previous report noted that the scheme is acceptable in principle in the context of local and national planning policy guidance.

With regard to weighing up the merits of the proposed development, officers note the following

#### *Social and Economic Benefits*

- The social and economic benefit of providing for the average electrical needs of 10,077 homes in the Mid Devon area.
- The proposal would support economic growth in this part of Mid Devon area by providing an additional source of income and so increasing the financial security of farming enterprises.
- The proposed development would represent farm diversification which is supported by the NPPF. The agricultural function of the land would also continue by means of sheep grazing and the site would be used effectively for agriculture as well as for electricity production.
- There would be a financial investment in the local economy with employment opportunities.
- The scheme will provide £190,000 in business rates for the council to fund other local needs.
- The proposals are far more viable than other forms of panelling, such as industrial roofs.

#### *Environmental benefits*

- Devon and Mid Devon councils have set ambitious climate goals for 2030 and 2050. It would allow Mid Devon to address the Climate Emergency in conjunction with Devon County Council
- Transitioning away from fossil fuel energy production and towards renewables is essential for achieving these aims.
- The ecological enhancement of the application site with species diverse meadows and additional and improved habitats such as new hedgerows and belts of rough grassland. This would accord with national guidance that biodiversity improvements are to be encouraged around arrays.
- It will also contribute a biodiversity net gain on sub-prime agricultural land.

#### *Environmental- Neutral*

The application has been found to be acceptable with regards to impact on trees/hedgerow, residential amenity, heritage, archaeology, highways and not resulting in any increased flood risk.

#### *Social- Neutral*

The presence of a solar farm is considered neutral in social terms.

#### *Disbenefits*

Some adverse impacts are identified in terms of impacts with regard to Highways and access and Heritage and Visual impacts. However it is clear from the previous report that any such disbenefits can be satisfactorily mitigated through the imposition of planning conditions.

Overall, the proposed solar farm would result in a substantial benefit in terms of energy production and officers are satisfied that no significant adverse impacts have been identified which would outweigh this benefit. The proposed development is acceptable and would represent sustainable development in accordance with Mid Devon Local Plan 2013 – 2033 and the national guidance.

## **CONCLUSION**

At Planning Committee on 14th July 2021 It was resolved that Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of:

- Adverse impact on the landscape;
- Adverse impact on the Grade 2 Langford Court;
- Additional loss of high grade agricultural land

With regard to adverse impact on the landscape, in summation overall the proposal will have a moderate/ minor impact upon the landscape of the area. Taking the 61ha site as whole it is considered that the harm identified with VPs 5 and 6 is not sufficient to warrant the refusal of the development on impact to the landscape character.

Natural England note that the proposal includes maintaining established field boundaries, planting native hedgerows and trees, enhanced wildlife corridors through the site and new species rich grassland around the panels and our advice is that any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP).

In addition within the Environment Agency response includes the advice that '*any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP).*

Accordingly, officers added a LEMP as an additional condition (no. 22) as set out in the update report for 14<sup>th</sup> July 2021 Planning Committee.

With regard to impact on Langford Court, Historic England note that Langdon Court, a grade II\* late medieval (and later) house has the potential for its setting to be most directly affected due to its position 350m from the nearest extent of the solar array, and the fact that the array extends across a considerable extent of landscape which forms a backdrop to the north of the Court.

It is considered that the heritage and visual impact matters have been satisfactorily addressed and that the officer had come to the view of harm being less than

substantial in weighing up the overall impact of the solar harm on Heritage assets. In applying the balance with regard to less than substantial harm against the public benefits of the proposal, it is considered that this was argued clearly both in this section and in the Planning Balance section at the end of the Committee report of March 31<sup>st</sup>. Accordingly, officers consider that there is nothing substantive further to add. And that the proposal accords with paragraph 202 of the NPPF (2021).

Finally, with regard to additional loss of high grade agricultural land, the NPPF defines the best and most versatile agricultural land as being land in Grades 1, 2 and 3a of the Agricultural Land Classification and the implication is that development should use the poorer quality land paragraph. The Agricultural Land Classification report (ALC) undertaken by qualified expert, who confirms that the proposal would utilise 17 fields making up 61ha, with 15 fields of Grade 3b, 1 fields of Grade 4 and 1 field of Grade 5. This means that the site comprises of, at best moderate quality agricultural land, to poor quality and very poor quality agricultural land.

Therefore the proposal does not result in the loss of good quality agricultural land, and there would be no objection to the use of this land with Grades 3b, 4 and 5 of Agricultural classification

The solar panels are to be secured to the ground with steel piles with limited soil disturbance, which means that the panels can be removed in the future with no permanent loss of agricultural land quality.

Whilst the construction of the substation and other buildings may permanently impact the agricultural land, but this would be for relatively small areas within the whole development area.

The proposal also includes the planting of grassland around the solar panels for grazing of animals and this would allow for a continual agricultural use during the anticipated 40 year operation of the solar farm.

Overall it is concluded that it would be difficult to justify a refusal of the proposal on the grounds of the impact upon the agricultural land; and that the proposal complies with policies S1, S9 and DM2 of the Local Plan and national policy in respect of agricultural land

It is considered that the report has clearly demonstrated that to refuse the application on the above grounds would not be justified and is likely to lead to the loss of an appeal and a potential award of costs.

It must be further noted that this reason for deferral was not present as a reason for the initial deferral nor in the additional questions posed by members which was dealt with in the report to Planning Committee on 14th July 2021.

Contact for any more information

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Background Papers

Committee report 01/03/2021 and deferred  
Committee Report 14/07/2021

File Reference

19/01679/MFUL

Circulation of the Report

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## **APPLICATION NO: 19/01679/FULL**

### **RECOMMENDATION**

#### **PROPOSED DEVELOPMENT**

This planning application proposes the installation of a 49.9MW solar farm comprising ground-mounted solar PV panels, battery storage facility, and associated plant, infrastructure, and other works.

The site is approximately 61ha in area and comprises farmland located in open countryside. The site is located to the north east of the village of Langford, north west of Plymtree and north of Clyst Hydon. The landscape of the site is undulating to the flood plain, though there are some steep slopes within the site, (approximately 11%).

An unnamed road runs in a north – south direction in close proximity to the western boundary of the site. Three access points are proposed into the site from the public highway. Two will be to the south of the site and one to the north west of the site. The construction access will be from Tye Farm at the north-west part of the site. The site is bisected by an unnamed road.

The River Weaver flows through the site in an east west direction Parts of the site are located in Flood Zones 2 and 3, including the floodplain.

The proposed solar panels (PV) will be laid out in rows on an east –west axis, facing south with a 15 degree orientation from the horizontal to maximise efficiency. The maximum height of the panels will not exceed 3m. Plant with other equipment and access tracks will be located around the site. This supporting equipment will include 15 inverter cabins, including one with switch gear.

The battery storage facility will be located in the south eastern corner of the site. There will be battery units in containers, a storage container and an inverter cabin. This area will also house the 132 kv electricity substation for the site. There will be underground cabling to link the development to the substation.

#### **REASON FOR REFERRAL**

At Planning Committee on 31<sup>st</sup> March 2020 members RESOLVED that the application be deferred for a Full Committee site visit to be undertaken and returned to committee accordingly with further information to come forward within a report to include the environmental impact of the application (question 2), details of the biodiversity plan (Questions 16-18), land management (question 9), mitigation of flood risk (questions 6, 7) and the shielding of the site (question 9). Members were also requested to inform the Development Management Manager of any further information they would like included in the additional report by Friday 9th April 2021.

The additional information was tabulated as a set of 20 questions or clarifications which encompass all the known outstanding matters and will be referred to as

questions for ease of reference. Whilst some of these fall within the above categories, other questions fell under the generic headings Access and Highways (questions 4 and 5), Heritage and Visual Impact (questions 11,13-15), Planning Obligations (question 10) and Planning Balance (question 8). The remaining questions relating to the enforcement, wording and monitoring of conditions (question 1 and 19), and measurement of solar farm outputs (question 3) In addition were non-specific questions related to an updated relevant condition (question and clarification of representations set out above (question 20).

For the purposes of the report. I will attempt to deal with all salient points set out in this table of additional questions/request for information.

## **SUPPORTING INFORMATION**

As set out above, in response to the questions arising at Planning Committee on 31<sup>st</sup> March 2021 these were tabulated and responses from the applicant and officers was added. This report is appended as a related documentation to this deferral report.

Please be advised that the original report is also appended to this report.

## **ORIGINAL OFFICER RECOMMENDATIONS**

Grant planning permission, subject to the conditions detailed below.

### **RECOMMENDATION:**

- 1) That Members approve the application subject to conditions.

*Financial Implications:* At this time there are no financial implications to the Council. Should Members decide to refuse the application, the applicant may lodge an appeal against the Council's decision. In addition the applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations. If the Inspector found that the Council had behaved unreasonably in refusing the application, the Council would be required to pay the applicants appeal costs.

*Legal Implications:* The report identifies the views of the highway authority as statutory consultee in the planning process. If members resolve to refuse the application on highway (or other) grounds they must be able to clearly justify each reason for refusal. There would be no support at the appeal from the Highway Authority.

*Risk Assessment:* If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour. Those costs could be significant in the event of the appeal being heard by public inquiry.

*Equality Impact Assessment:* Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons with protected characteristics have been identified in the determination of this application.

### **Relationship to Corporate Plan:**

#### *Environment*

Encourage "green" sources of energy, supply new policies and develop plans to decarbonise energy consumption in Mid Devon

#### *Impact on Climate Change:*

Section 70 (2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in determining a planning application, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 11 of the Framework. The climate emergency shall be considered through existing planning policies and any subsequent development plans.

### **Representations**

Members sought clarifications and summary of objections. In addition by way of update this section provides consequent receipt of consultation responses since the Planning Committee was held on 31<sup>st</sup> March 2021.

The Committee report for 31<sup>st</sup> March noted 136 representations have been received from the general public. At the time of writing 150 objections had been received with 12 general/neutral submissions of 6 in support of the proposal.

Since the 31st March Committee 6 third party representations have been received; 4 objecting, one supporting and one neutral

The latest objections to the proposed development is that it would destroy the green countryside and harm wildlife, as well as its location on a greenfield rather than brownfield site. The neutral representation thought that the site location high grade farmland, growing food should be priority and view of residents are important consideration and loss of property values the additional representation in support gave no reasons.

The CPRE objected on two grounds as the material used to make the solar panels are sourced from the extreme west of China and are suspected of using forced labour and permission should be refused unless a condition is imposed that states that the solar panels will not be sourced from a manufacturer which involves use of forced labour in its supply chain.

The second of the CPRE objections is the lack of information on installed power capacity of the batteries or what are the benefits or storage. That the access to the battery storage area is only prevented by a deer fence which is inadequate for such a 'potentially dangerous facility'. The risks from battery storage facilities is battery overheating resulting from many issues, including mechanical damage or electrical surges or potentially fires and/or explosions.

With regard to the source of materials and the practices employed in their extrapolation, officers can advise that this is not a planning matter and accordingly, limiting conditions in relation to this cannot be attached to any recommendation for planning permission.

With regard to storage and potential fire hazards, the applicants have responded to the above concerns and suggest the following:

Any system that will be installed be strenuously tested during the factory and pre-commissioning testing regime before given the final sign-off to energise. With regards to Li Ion, it is an already established technology, which has been used in mobile phones/laptops/electric vehicles and bikes (and pretty much everywhere around us) for decades. Manufacturers use that established technology and scale it up to utility scale for our purposes. Li Ion Batteries are housed in a purpose-built container, which will include an extremely efficient and intelligent management system as well as state-of-the-art cooling and fire suppression systems.

Those systems can and will detect the off-gases that predate any unlikely thermal runaway event and shut down the malfunctioning cell/rack safely. Worth noting that the sensors for this are incredibly sensitive, down to 1pmm (parts per million).

With regards to Lithium Ion Phosphate – the technology has a higher thermal runaway temperature threshold and as a result improved battery safety.

With regards to Flow technology - the electrolyte used is aqueous and inherently safe/non-flammable. Flow Batteries are similarly housed in purpose made containers with slightly different management and support systems but nevertheless they would ultimately function the same as the Li Ion batteries.

Regardless of the technology to be used, once commissioned, the whole installation will continuously report and be monitored by a central manned hub (Operations and Maintenance centre) where engineers and technology experts will ensure that the installation is operating optimally/safely. One last thing worth mentioning here is that the energised installation will be contracting with National Grid and help to support the UK grid. Because of that, there will be quite strict requirements with regards to safety, availability of the installation and response times.

Officers are satisfied that the above explanation which can be and managed outside of the planning process.

Since the 31<sup>st</sup> March meeting, a further update from the County Archaeologist confirmed no objections subject to a standard pre-commencement condition which is

acceptable to the applicants and is included as revised condition 11 set out later in this report.

It is considered that the bullet points listed with regard to the third party representations set out in the report to Committee on 31<sup>st</sup> March 2021 is sufficiently comprehensive in terms of covering the representations of third party consultees.

## **Environment Impact of Application**

One of the reasons for deferral related to the environmental impact of the appraisal with particular regard to question 2 on the table relating to noise impact of the development

### Noise Impact/Amenity

Question 2 of the appended table asked why there had been no noise impact assessment with regard to the impacts on the solar panels of rain, wind and electrical generated noise when they are in operation.

The officer's report advised that 'the solar panels in themselves do not generate noise' and that 'Public Health has not raised an objection on the basis of noise.' In addition, a noise assessment was not required for this application, but on the specific technical matters, the applicants advised that their acoustics consultants provide the following information:

(a) They are unaware of any proposal where the noise impact of rain has been considered or deemed to be a material planning consideration. The note that the angled panels would, in any case, lessen the impact of precipitation in the immediate vicinity.

(b) As noted by the planning officer, there is no hum from the panels. The only source of noise is the inverters, principally associated with the fans and usually only within 25 metres. The level of noise at the site boundary would be low, and the equipment does not operate during hours of darkness. Due to the separation distances the noise levels will be below a level which would represent the lowest observed adverse effects level, thus ensuring that the operation did not result in unacceptable levels of noise and thus ensuring full compliance with the requirements of the NPPF.

(c) They are unaware of any case where this has been considered or deemed to be a material planning consideration. Given the scale, height and angled position of the panels it is considered that any audible sound of wind through them would be negligible.

Given the above, it is noted that the applicant is happy to accept a condition that limits noise output to British standard. However given the scale of the site and the variation in noise impact depending on wind direction and other atmospheric conditions throughout the year and the widely variable area of impact as a consequence that such a condition would not be proportionate, reasonable or enforceable.

It is however, noted that condition 15 covers largely the Public Health Comments under Noise & other nuisances where it specifically mentions the screening mitigation detailed in the Glint and Glare Assessment. Officers consider that condition 15 in its present form ensures suitable mitigation with regard to this matter.

#### Biodiversity Update

Referring to the initial response form the Devon Wildlife Trust relating to comments that planning decisions need to be made with confidence about biodiversity mitigation and enhancement measures proposed and that the documents submitted with the above planning application do not give the required confidence that the habitat mitigation proposed will actually be effectively implemented. Members question the weight such comments and concerns should carry little or no weight in members considerations. Officers advise that this this was the initial response from Devon Wildlife Trust on 21<sup>st</sup> November 2019 prior to further information which officers considered and took to Planning Committee on 31<sup>st</sup> March 2021.

Further information/clarification was requested with regard to the Future Ecological Enhancement and Management Plan and Revised Biodiversity Management Plan with regard to details of funding and provision of future management of such a plan for the next 40 years and how it or will it be enforced.

To recap, the applicant has since submitted a revised biodiversity management plan and one of the positive steps of this plan is to appoint an Ecological Clerk of Works to advise on and supervise ecological mitigation and enhancement works during construction and operation as required and a licensed dormouse ecologist will be present to supervise hedgerow removal works where undertaken. Initially site visits will be undertaken on a monthly basis during the last week of each month that the site is under construction.

This submitted plan as well describing the mitigation measures similar to the previous document, also provides ecological enhancement measures. The design and long-term management of the land seeks to maintain and improve functionality through protecting and enhancing potentially important wildlife corridors i.e. through creation and maintenance of native species hedgerows within and around the site. New hedgerow planting proposed as part of the development as shown on the Site Layout and Planting Proposals Plan includes approximately 600m of new mixed native species hedgerow creation and strengthening infill, providing well-structured hedgerows of value for wildlife around the Site. Protection of hedgerows and mature trees on Site or along access routes and adjacent land will safeguard potential roost sites and maintain foraging and commuting opportunities for bats.

Other enhancement measures include the planting of a native species woodland copse area on the eastern boundary, which will provide an effective boundary to the adjoining residential. As the solar panels are raised from the ground a diverse grassland habitat can be created, using a variety of native species, which will change the site to meadow grassland. This allows for sheep grazing between and under the solar panels.

Examples of fauna enhancement include 10 bird boxes and 10 bat boxes to be installed in tree locations around the site. In addition 10 dormice boxes will be placed in hedgerows. The security fencing will be lifted in various locations to allow the badgers movement in and around the site. The development of the biodiversity interest of the site will be monitored over time by a suitably experienced ecologist. A walkover monitoring survey will be undertaken in years 2, 3, 4, 5, 10 and 15 after construction. This will involve an inspection of the hedgerows, trees, grassland and any other ecological features to ensure that they are being managed in a manner suitable for the enhancement of wildlife interest. Bird and bat boxes will also be checked. The results of these monitoring surveys will be used to inform future changes in management and the need or otherwise to replace missing bat/bird boxes.

The management plan will be amended if necessary based on the monitoring recommendations. It is considered that the revised biodiversity management plan addresses many of the concerns about the habitat and the biodiversity of the site. Overall it is concluded that the proposal would not result in unacceptable harm to protected species or biodiversity in general subject to the use of mitigation and enhancement measures. In addition this development will not harm the character or the appearance of the Blackdown Hills AONB.

An attempt by officers to gain a response to the updated information submitted since then unfortunately has not resulted in a response beyond that of 5<sup>th</sup> April 2021 advising that due to reduced resources the provision of planning advice was limited and referring officers to standing advice.

Officers consider that this matter was well covered by the 31<sup>st</sup> March 2021 Committee report but after liaising with the applicants would advise that condition 12 can be updated to take into account of the updated submissions from the applicant. It is considered that the proposed updated condition is enforceable and in accordance with the other 5 tests for the imposition of planning conditions.

## Flood Risk

Questions and comments from members in relation to the Devon LLFA included the following:

- The filter dale and swale and where could these be seen.
- That as well as the technical note dated 2<sup>nd</sup> February 2021 and the Approved Flood Risk Assessment (V5) set out on 30<sup>th</sup> November 2020 and therefore what is it that members should approve.

The last clarification related to a document referred to be the Environment Agency dated 2 December 2019. However this is updated by a revised comment dated 21<sup>st</sup> December 2020 where their objection is removed on receipt of the revised Flood Risk Assessment with certain recommendations including a condition to ensure mitigation measures proposed are implemented.

The revised Flood Risk Assessment referred to above, dated 30<sup>th</sup> November 2020 (received on 18<sup>th</sup> December 2020) on planning webpage details general mitigation

measures (see Section 7.2) and Floodplain mitigation measures (see Section 7.3). In summary these measures include:

- Inverter/DNO/substation equipment located in Flood Zone 1 areas
- Raised Battery Storage Area
- Raised panels in Flood Zone 2/3 areas
- Access roads will use permeable crushed stone surface
- Compensatory storage to be provided adjacent to watercourse i.e. attenuation pond/scrape
- Additional large “no build” areas within the functional floodplain which will be turned into a wetland scrapes area for wildlife/birds.
- Swales will be added on site (see extract / drawings below and plan in Appendix I of the Flood Risk Report)

With regard to Vulnerability Classification, chapter 5 Development Vulnerability and Flood Zone Classification of the revised Flood Risk Assessment details the vulnerability classification and confirms the solar farm is classed as “Essential Infrastructure”. The Environment Agency agree with this interpretation as noted in their letter dated 12th November 2020 (DC/2020/121714/01-L01) which states: *“Based on the characteristics of the development and conversations our National Office are having with MHCLG, we consider that it should be considered in the same light as wind turbines, i.e. essential infrastructure.”*

With regard to the Sequential Test, details of the sequential test are summarised in the Committee Report 31.03.21. The reasons can be summarised as follows;

- Ability to achieve a viable connection to the Electricity Network;
- the land being available (i.e. a willing landowner(s));
- Avoids statutory environmental designations;
- Avoids best and most versatile agricultural land

Given the above, the relevant condition 17 will be amended to provide more details in relation to the updated Flood Risk Assessment.

#### Land Management/Shielding of Site

More information was requested with regard to the Conditioned Landscape and Environmental Management Plan

Within the Environment Agency response includes the advice that *‘any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP)*. The applicants have advised that that they consider the use of a LEMP to be good practise on its sites, and would be content with a pre-commencement condition requiring submission of, and the LPA’s written approval for, a LEMP. Accordingly, officers have added a LEMP as an additional condition (no. 22) as set out below.

### **ADDITIONAL INFORMATION RAISED BY TABLE OF QUESTIONS**

#### Access and Highways

Members noted a discrepancy between the County Highway Authority response and condition with regard to the length of highway to be drainage, maintained, surfaced etc. The applicant have indicated that they would have no objections to the relevant Condition 6 can be amended to include this and remove the discrepancy. Officers have therefore amended condition 6 accordingly.

The second member query is that the B3181 has a speed limit of 60mph but at Westcott it is 40mph and whether the officer had been to the site. The previous case officer has confirmed she did visit the site and driven around the lanes. In addition, the applicant advises that the rural lanes around the site would not serve construction traffic which would stop at the north end of the site with equipment then distributed by smaller vehicles

#### Heritage and Visual Impacts

Members noted Historic England's response which in reference to Langdon Court that they were not entirely in agreement with the heritage statement. However the final paragraph of Heritage England's response states that:

*"We are satisfied that your own specialists can take an informed view of the level of harm that might occur to the setting of Langford Court once a site visit has been made, and it is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. If you would like detailed advice from us, please contact us to explain your request"*

Members note that the Conservation Officer in his consultation response suggests that the report lacks detail and does not justify the proposal in the context of the building and brings into question the assessment and points out that no assessment has been made of views to the East. The last paragraph of his response in summary suggests that the proposal would result in registerable harm to the significance and setting of the grade II\* listed Langford Court which must be given considerable weight and the apparent contradiction with the Committee report stating the overall impact would be less than substantial harm.

To recap, the Committee report noted that there are no designated heritage assets within the site; however Langford Court, a Grade II\* building is a heritage asset outside but in close proximity to the development site. This heritage asset requires the Local Planning Authority to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. The importance of considering the impact of new development on the significance of designated heritage assets is dealt with in section 16 of the NPPF.

This section of the NPPF advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm requires clear and convincing justification. However the NPPF does explain that the setting is not fixed and may change as the asset and its surrounding evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Langford Court is a Grade II\* house, which was originally the centre of a 465 acre estate which over time the grounds have been divided to accommodate an intensive agricultural regime as well as now being used as two separate dwellings,

The Committee Report dated 31<sup>st</sup> March 2021 explains:

*“consideration of harm to the setting of Langford Court by the solar farm, must be seen within the context of the setting of the Court which has been altered by the agricultural buildings. It is clear from the submitted Heritage Assessment that the overall views of the solar panel array from Langford Court itself would not cause harm to the setting of the house. Both Historic England and the Council’s Conservation officer state that the issue is the impact of the location of the solar panel array in the south eastern part of the application site upon the setting of Langford Court.*

*It has already been recognised through the LVIA discussion that the view from the west towards Langford Court (to the east) will change from the house with a rural landscape to the house with a back drop of the solar panel array. This view has been designated as a major adverse view upon the landscape. In contrast the view from the edge of Plymtree looking east towards Langford Court and over the array has a moderate impact on the landscape.*

*There is no doubt that the introduction of the solar farm in this location will have an impact upon the setting of Langford Court, in particular when looking from the west to the east. Having reviewed the setting and taking account of the consultations it is considered because of the distance, the visual impact of the panels would be limited and would be a small part of the wide countryside setting of Langford Court, the overall impact would be less than substantial harm”.*

With regard to weighing the balance the Committee Report goes on to explain that:

*“Paragraph 196 of the NPPF states that ‘where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’. This is reiterated by Local Plan policy DM25 (d). In terms of the public benefit the solar farm of this size will generate a significant amount of electricity from renewable sources. In context the proposed solar farm can meet the energy needs of approximately 10,077 homes in the Mid Devon District. This would be a substantial benefit to Mid Devon and would mean that Mid Devon would be contributing to the aims of Devon Climate Emergency Response Group by reducing carbon emissions. It should also be noted that the scheme would represent a substantial investment of £40,000,000. The development will also support between 70 and 80 direct and indirect jobs during the construction phase and a smaller number of jobs when the solar farm is operational. Taking account of the public benefit of the scheme in the production of renewable energy balanced with the less than substantial harm impact of the solar farm on the setting of Langford Court, it is considered that the proposal on balance accords with Local Plan policies DM2 and DM25 and the provisions of the NPPF”.*

It is considered that the heritage and visual impact matters have been satisfactorily addressed and that the officer had come to the view of harm being less than substantial in weighing up the overall impact of the solar harm on Heritage assets. In applying the balance with regard to less than substantial harm against the public benefits of the proposal, it is considered that this was argued clearly both in this section and in the Planning Balance section at the end of the Committee report of March 31<sup>st</sup>. Accordingly, officers consider that there is nothing substantive further to add.

## Planning Obligations

Members note Natural England's consultation response that they state that there may also be potential for the development to have a wider positive impact financially contributing to local environmental/social initiatives in the Parishes affected to help connect people and wildlife and whether any such.

The applicants advise that they are committed to ensuring local communities become active stakeholders in our solar schemes. In line with planning guidance, they therefore welcome the opportunity to engage with parish councils to discuss potential Community Benefit projects. Our standard offering across all our projects is to fund rooftop solar installations on community buildings, of up to 50kWp (£50,000) across one or multiple community buildings e.g. schools, churches, parish halls or other community buildings. They continue that:

*"This may not be possible or relevant in all instances and we therefore welcome alternative suggestions from parish councils that may be more appropriate for each community's circumstances.*

*The community benefit offering falls outside the planning process and therefore should not be tied to the planning permission by way of a S106 agreement. We will engage directly with the parish council(s) and sign our standard "Deed of Gift" Agreement which details the legal obligation for JBM to provide a £50,000 gift to the relevant Parish Council(s) to be used towards rooftop solar P.V. or other sustainable initiatives in the community. All funds will be administered by the relevant Parish Council(s) and not the Local Planning Authority".*

Officers would advise that the imposition of Planning Obligations should only be considered if they assist in mitigating the impact on unacceptable development to make it acceptable in planning terms. The tests are that the obligations are:

- Necessary to make the development acceptable in planning terms
- Directly related to the development and
- Fairly and reasonably related in scale and kind to the development.

Officers agree that the matter falls outside the scope of this planning permission and was not discussed as part of the previous discussion at Planning Committee. As

such they are of the view that the matter cannot be explored further within the limitations of this report.

### Planning Balance

Members note the large scale nature of this scheme as defined in the MDDC Solar PV developments Supplementary Planning Document (SPD). This raises the question of how to employ the planning balance for such a scheme in this location.

The previous report noted that the scheme is acceptable in principle in the context of local and national planning policy guidance.

With regard to weighing up the merits of the proposed development, officers note the following

#### *Social and Economic Benefits*

- The social and economic benefit of providing for the average electrical needs of 10,077 homes in the Mid Devon area.
- The proposal would support economic growth in this part of Mid Devon area by providing an additional source of income and so increasing the financial security of farming enterprises.
- The proposed development would represent farm diversification which is supported by the NPPF. The agricultural function of the land would also continue by means of sheep grazing and the site would be used effectively for agriculture as well as for electricity production.
- There would be a financial investment in the local economy with employment opportunities.

#### *Environmental benefits*

- The environmental benefit of providing a valuable contribution to cutting greenhouse gas emissions and this is a material consideration which warrants considerable weight. The proposal would support the Government's targets in terms of renewable energy provision to meet international commitments. Furthermore it would allow Mid Devon to address the Climate Emergency in conjunction with Devon County Council.
- The ecological enhancement of the application site with species diverse meadows and additional and improved habitats such as new hedgerows and belts of rough grassland. This would accord with national guidance that biodiversity improvements are to be encouraged around arrays.

#### *Environmental- Neutral*

- The application has been found to be acceptable with regards to impact on trees/hedgerow, residential amenity, heritage, archaeology, highways and not resulting in any increased flood risk.

#### *Social- Neutral*

The presence of a solar farm is considered neutral in social terms

### *Disbenefits*

Some adverse impacts are identified in terms of impacts with regard to Highways and access and Heritage and Visual impacts. However it is clear from the previous report that any such disbenefits can be satisfactorily mitigated through the imposition of planning conditions.

Overall, the proposed solar farm would result in a substantial benefit in terms of energy production and officers are satisfied that no significant adverse impacts have been identified which would outweigh this benefit. The proposed development is acceptable and would represent sustainable development in accordance with Mid Devon Local Plan 2013 – 2033 and the national guidance.

### Other Matters

The remaining questions and clarifications consist of the enforcement and monitoring of conditions. Officers advise that they will only attach conditions which are necessary to make the development acceptable and pass the six tests as set out in national Planning Policy Guidance. One of the six tests are that they are enforceable. Accordingly, should permission be granted and any breach of conditions attached occur, officer are confident that they would be able to enforce the said breach should it be expedient to do so.

A question with regard to out of date policies DM27 LP3, officer can confirm that the policy is updated within the new Local Plan as Policy DM25.

The other outstanding question related to how is the eventual output of the solar farm measured and what would the Local Planning Authority action be if it were exceeded. The applicant's agents advise that the maximum potential output of the solar farm will be limited by two factors;

1. The installed inverter capacity on site
2. The size of our contracted export grid connection

The number and capacity of the solar farm and inverters is detailed in the planning application. A post construction compliance cert can be provided to the LPA as required.

Aside from the inverters the District Network Operator (DNO) requires a mandatory circuit breaker / safety mechanism which will switch the solar farm off automatically if it were to export excess electricity above our agreed export connection. It is not possible to export beyond that and there would be a further backstop of the DNO's equipment, who require a mandatory circuit breaker. Essentially, this is a safety mechanism that automatically switches off the solar farm in the event that an operator (hypothetically) tried to export in excess of the agreed export limit.

Officers consider that the explanation provided above is sufficient to allay any concerns but also that a planning condition requiring submission of a post construction certificate would not be appropriate or proportionate, not least that the

appropriate control rests with the District Network Operator, that is outside of the planning process.

### **Suggested Amended and New Conditions**

As a consequence of the above, it is considered that the list of attached conditions are amended with an addition of a condition requiring submission pre-commencement of a LEMP.

A condition list is tabled below indicating where amendments and additions occur

Condition Numbers	Unchanged	Amended	New
	1-5		
		6	
	7-10		
		11	
		12	
	13-14		
		15	
	16		
		17	
	18-20		
		21	
			22

### **CONDITIONS**

It is confirmed that conditions 1-5, 7-10, 13-14, 1 and 18-20 inclusive are un-amended from the report to the 31<sup>st</sup> March 2021 Planning Committee.

### **SUGGESTED AMENDED CONDITIONS**

The amended conditions and new condition are set out in detail below:

Taking account of update sheet to 31<sup>st</sup> March 2021 planning Committee:

Condition 10 to read

No development shall take place until off site highway condition surveys have been undertaken and the details submitted to and approved in writing by the Local Planning Authority in liaison with the Local Highway Authority.

Condition 21 – To read

Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the

egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of wheel washing facilities and road sweeping measures with the respective obligations
- (k) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (l) Details of the amount and location of construction worker parking.
- (m) Photographic evidence of the condition of adjacent public highway prior to commencement of any work

#### Other Amended Conditions

##### Condition 6

The site access roads should be in a sound bound material for the first 20.00m and drained to prevent no surface water onto the public highway. The site access roads shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority.

##### Condition 11

No part of the development hereby permitted shall be commenced until:

#### EITHER

(i) A programme of archaeological work has been carried out in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority.

#### OR

(ii) A construction methodology for the development that avoids any below-ground impact within the area of archaeological sensitivity in the vicinity of the 7/8th century

iron furnace identified has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved scheme (under either part i or part ii), or such other details as may be subsequently agreed in writing by the Local Planning Authority.

#### Condition 12

No development shall take place until a detailed scheme of ecological mitigation and enhancement measures, in accordance with the recommendations of the following submitted documentation:

- (a) The Biodiversity Management Plan by avian ecology v4 (Dated 20/07/2020) has been submitted to and approved in writing by the Local Planning Authority.
- (b) The Biodiversity Enhancement Note and Addendum Note, (Dated 03/12/2020)
- (c) The update Site Layout Plan

Notwithstanding the details included in the above documentations, the details shall include The details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved details.

#### Condition 17

The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment report prepared by Calibro, and issued on 30<sup>th</sup> November 2020 including the level for floodplain level floodplain compensation outlined in paragraph 7.6.6 of the FRA the mitigation measures shall be fully implemented in accordance with the timing/phasing arrangements detailed within the Flood Risk Assessment. The approved measures shall thereafter be retained for the life of the development.

### **SUGGESTED NEW PLANNING CONDITION**

#### Condition 22

No development shall take place until a Landscape and Ecological Management Plan. is submitted to and approved in writing by the Local Planning Authority. This plan shall have provide details of the following:

- (a) Retained Ecological and Landscape Features
- (b) Proposed Habitats, Ecological and Landscape Features
- (c) Habitat and landscape Management Measures
- (d) Monitoring and Review of Plan

The development shall not be carried out other than in accordance with the approved details.

## **Reasons for Planning Conditions**

### **Reason for Condition 4**

For the avoidance of doubt and to establish the duration of the planning permission and in the interests of the visual appearance of the landscape once the plant is redundant in accordance with policy DM2 of the Mid Devon Local Plan 2013 – 2033.

### **Reason for condition 10**

To minimise the impact of the development on the highway network in accordance with the NPPF.

### **Reason for condition 21**

To minimise the impact upon the highway network and the neighbouring residential properties during the construction period.

### **Other Amended Conditions**

#### **Reason for condition 6**

To prevent mud and other debris being carried onto the public highway.

#### **Reason for condition 11**

To ensure that either: (i) in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development, or (ii) in accordance with Policy DM27, the preservation in situ of heritage assets.

#### **Reason for Condition 12**

In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013-33.

#### **Reason for Condition 17**

To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.

#### **Reasons for condition 22**

In the interests of the visual amenity of the area and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.

**AGENDA ITEM**

**APPLICATION NO. 19/01679/MFUL**

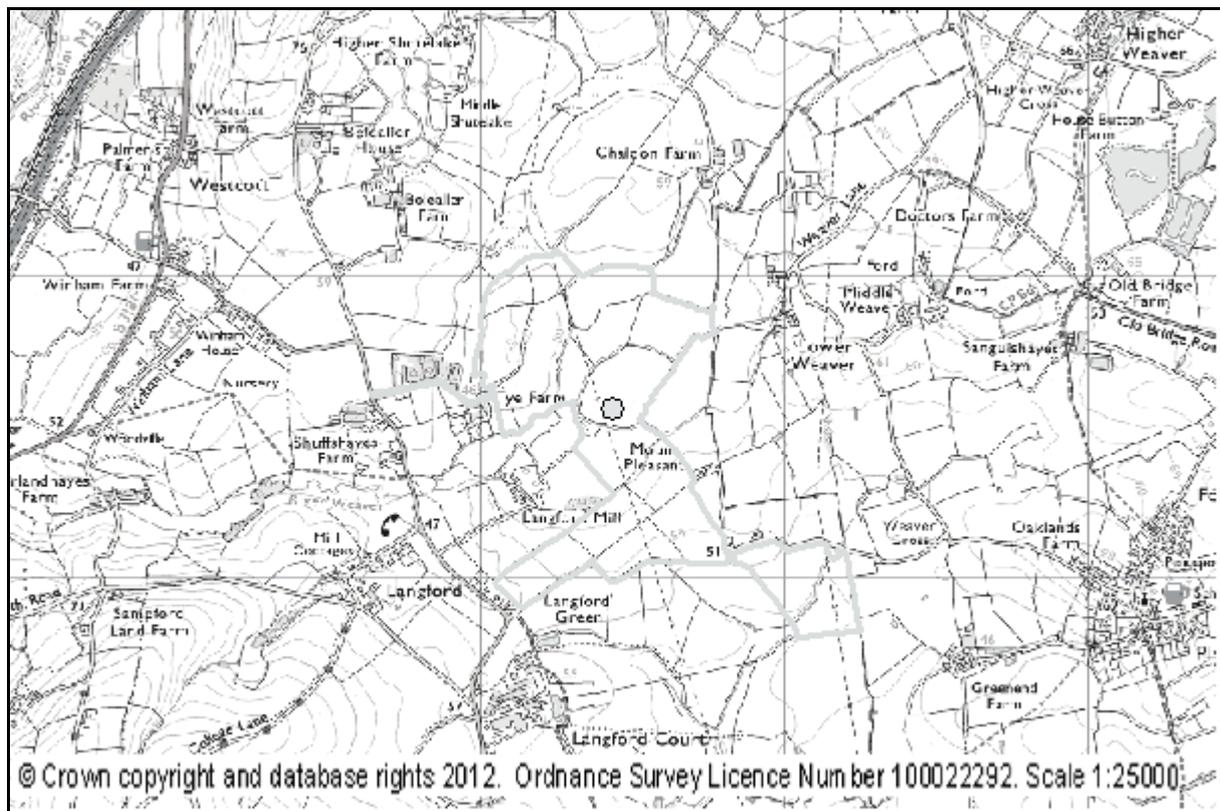
**Grid Ref:** 103644 : 303174

**Applicant:** Mr McAllister, JBM  
Solar Projects 2 Ltd

**Location:** land at NGR 303437 103555 East of Langford Mill and Tye Farm  
Langford, Devon

**Proposal:** Construction of ground-mounted solar PV panels to generate up to 49.9MW  
(Site Area 60.78ha) and battery storage facility together with all associated  
works, equipment and necessary infrastructure

**Date Valid:** 9<sup>th</sup> October 2019



**PLANNING COMMITTEE**  
**31<sup>ST</sup> MARCH 2021**

**Construction of Ground Construction of ground-mounted solar PV panels to generate up to 49.9MW (Site Area 60.78ha) and battery storage facility together with all associated works, equipment and necessary infrastructure at Land at NGR 303437 103555 East of Langford Mill and Tye Farm Langford**

**Cabinet Member(s):** Cllr Richard Chesterton  
**Responsible Officer:** Eileen Paterson Development Management Manager

**Reason for Report:** The application is for determination by the Planning Committee. The report contains the details of the application and the assessment of the application against local and national policy

**RECOMMENDATION:**

- 1) That Members approve the application subject to conditions.

**Financial Implications:** At this time there are no financial implications to the Council. Should Members decide to refuse the application, the applicant may lodge an appeal against the Council's decision. In addition the applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations. If the Inspector found that the Council had behaved unreasonably in refusing the application, the Council would be required to pay the applicants appeal costs.

**Legal Implications:** The report identifies the views of the highway authority as statutory consultee in the planning process. If members resolve to refuse the application on highway (or other) grounds they must be able to clearly justify each reason for refusal. There would be no support at the appeal from the Highway Authority.

**Risk Assessment:** If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour. Those costs could be significant in the event of the appeal being heard by public inquiry.

**Equality Impact Assessment:** Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons with protected characteristics have been identified in the determination of this application.

**Relationship to Corporate Plan:**

Environment

- Encourage "green" sources of energy, supply new policies and develop plans to decarbonise energy consumption in Mid Devon

**Impact on Climate Change:** Section 70 (2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in

determining a planning application, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 14 of the Framework. The climate emergency shall be considered through existing planning policies and any subsequent development plans.

## **PROPOSED DEVELOPMENT**

This planning application proposes the installation of a 49.9MW solar farm comprising ground-mounted solar PV panels, battery storage facility, and associated plant, infrastructure, and other works.

The site is approximately 61ha in area and comprises farmland located in open countryside. The site is located to the north east of the village of Langford, north west of Plymtree and north of Clyst Hydon. The landscape of the site is undulating to the flood plain, though there are some steep slopes within the site, (approximately 11%).

An unnamed road runs in a north – south direction in close proximity to the western boundary of the site. Three access points are proposed into the site from the public highway. Two will be to the south of the site and one to the north west of the site. The construction access will be from Tye Farm at the north west part of the site. The site is bisected by an unnamed road.

The River Weaver flows through the site in an east west direction Parts of the site are located in Flood Zones 2 and 3, including the floodplain.

The proposed solar photovoltaic panels (PV) will be laid out in rows on an east –west axis, facing south with a 15 degree orientation from the horizontal to maximise efficiency. The maximum height of the panels will not exceed 3m. Plant with other equipment and access tracks will be located around the site. This supporting equipment will include 15 inverter cabins, including one with switch gear.

The battery storage facility will be located in the south eastern corner of the site. There will be battery units in containers, a storage container and an inverter cabin. This area will also house the 132 kv electricity substation for the site. There will be underground cabling to link the development to the substation.

### **Environment Impact of Application**

One of the reasons for deferral related to the environmental impact of the appraisal LIST THESE

### **Noise Impact**

Question 2 of the linked spreadsheet asked why there had been no noise impact assessment with regard to the impacts on the solar panels of rain, wind and electrical generated noise when they are in operation.

The officer's report advised that 'the solar panels in themselves do not generate noise' and that 'Public Health has not raised an objection on the basis of noise.' In addition, a noise assessment was not required for this application, but on the specific technical matters, our acoustics consultants advise as follows:

(a) They are unaware of any proposal where the noise impact of rain has been considered or deemed to be a material planning consideration; The angled panels would, in any case, lessen the impact of precipitation in the immediate vicinity.

(b) As noted by the planning officer, there is no hum from the panels. The only source of noise is the inverters, principally associated with the fans and usually only within 25 metres. The level of noise at the site boundary would be low, and the equipment does not operate during hours of darkness. Due to the separation distances the noise levels will be below a level which would represent the lowest observed adverse effects level, thus ensuring that the operation did not result in unacceptable levels of noise and thus ensuring full compliance with the requirements of the NPPF.

(c) They are unaware of any case where this has been considered or deemed to be a material planning consideration. Given the scale, height and angled position of the panels it is considered that any audible sound of wind through them would be negligible.

Given the above, it is noted that the applicant is happy to accept a condition that limits noise output to British standard. However given the scale of the site and the variation in noise impact depending on wind direction and other atmospheric conditions throughout the year and the widely variable area of impact as a consequence that such a condition would not be proportionate, reasonable or enforceable.

## **APPLICANT'S SUPPORTING INFORMATION**

Application form, plans, supporting information.

## **RELEVANT PLANNING HISTORY**

There are some previous planning decisions at the site reflecting its status as agricultural land. Of most relevance to the application under consideration is the following:

18/01950/SCR - Request for Screening Opinion in respect of a proposed solar farm and battery storage facility – EIA not required.

## **DEVELOPMENT PLAN POLICIES**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework is noted as one such material consideration.

### **Mid Devon Local Plan 2013 – 2033**

Policy S1 Sustainable development priorities  
Policy S9 Environment  
Policy S14 Countryside  
Policy DM1 High Quality Design  
Policy DM2 Renewable and low carbon energy  
Policy DM18 Rural Employment development  
Policy DM 25 Development Affecting heritage assets.

### **Cullompton Neighbourhood Plan**

The National Planning Policy Framework 2019("the NPPF")  
Planning Practice Guidance: Renewable and Low Carbon Energy 2015  
The Mid Devon Landscape Sensitivity Assessment

## **CONSULTATIONS**

### **Bradninch Parish Council**

No objections. Grazing should be allowed to continue beneath the proposed panels.

#### **Bradninch Parish Council 30<sup>th</sup> July 2020**

Following receipt of new information regarding the likely detrimental impacts of the proposed development on a local business (Yarak Birds of Prey), Bradninch Town Council have reconsidered their comments and, based on the new information received, now object to this application.

(Officer comment - Yarak Birds of Prey have withdrawn the representation objecting to the application)

### **Clyst Hydon Parish Council**

Physical size/scale - We do not believe that the site can possibly warrant such a big solar farm. Surely greenfield land available to produce food for our growing population would be more sustainable and if you allow this, what is to suggest that in future all the land surrounding won't be sold for more panels construction. This country is a small island, so surely we need all the land we can without giving the latest generations of farmers a chance to profit from previous generations hard work with sustainability. Trees should be being planted not cut down.

12 Months of chaos on unsuitable roads - It is felt that a construction of this size will bring utter chaos to the local community, not to mention unpassable roads once building commences. Our roads are unsuitable for a large increase of construction traffic. We are sure that any local Council / Highways cannot afford the resurfacing of roads as it is, let alone once this Company come through.

Proximity to highways and dwellings and solar glare - People live in these areas! The glare caused by the Solar Farm installation along the M5 causes enough issues when driving along the top road from Fagin's to Langford, so what will this bring. Also the people along Langford road/Yarak will probably no longer be able to look out onto their back gardens without a glare and heat that will be produced from this proposed installation.

Flooding - We already have issues of flooding in this area, therefore surely with the amount of panels proposed it would cause an amazing amount of run-off, not to mention everything else that will leach from the fields.

Impact to the environment - Birds already have confusion with regards to these panels elsewhere, this size will cause utter confusion. Within the plan is a skylark habitat, this should not be disturbed on any count and should be protected.

In conclusion, as a Parish Council and Community, we feel that this planning permission should be refused categorically.

### **Cullompton Town Council**

Recommend approval subject to:

- (i) It being ensured that the land underneath the solar panels can be used for grazing.
- (ii) Having due regard for the proposed garden village and
- (iii) Being provided with details of the lifespan of the panels and what happens to them at the end of their useful life.

### **Cullompton Town Council 17<sup>th</sup> July 2020**

RESOLVED that planning application 19/01679/MFUL) is OPPOSED in the most rigorous terms in that the proposal:

- a. is clearly unsuitable for the land on which it is to be built.
- b. is not essential infrastructure.
- c. will not generate anything like the claimed electricity.
- d. will destroy well established businesses in the immediate vicinity.

**Kentisbeare Parish Council**

Concerned about the scale of this proposal, which will have a detrimental visual impact on the surrounding area. The proposal will be visible from many areas due to the proposed size.

The land is prime agricultural land, and it is considered that panels are best placed on agricultural buildings where possible.

**Plymtree Parish Council**

1. Permission should only be granted for the stipulated duration, i.e. 40 years and only for the express purpose stated, in the application.
2. No permanent change of use should be considered. At the end of the stated period the land should automatically revert to its current status of agricultural land and all equipment suitably removed without detriment the land.
3. No additional land owned by either the current applicants or other landowners be considered for future development with respect to ground-mounted solar pv panels or similar technologies.
4. That wildlife is considered and prioritised when deciding whether to grant or deny the applicant permission.
5. This application does not set a precedent for future, similar developments.

**Willand Parish Council**

No observations to make.

**Public Health**

- Contaminated Land: No objection to this proposal. (10.10.19).
- Air Quality: No objection to this proposal. (10.10.19).
- Environmental Permitting: No objection to this proposal. (10.10.19).
- Drainage: No objection to this proposal. (10.10.19).

Noise & other nuisances: The screening mitigation detailed in the Glint and Glare assessment section 8.5 needs to be in place and at the designated height of 3m before the development can take place.

The height of the proposed screening for dwelling 50 has not been detailed in the assessment. This needs to be confirmed before a final recommendation can be made. (10.10.19).

- Housing Standards: No objection to this proposal. (10.10.19).
- Licensing: No comments. (10.10.19).
- Food Hygiene: Not applicable. (10.10.19).
- Private Water Supplies: Not applicable. (10.09.19).

*Health and Safety:*

*No objection to this proposal enforced by HSE. (10.10.19).*

### **County Highway Authority**

I have visited the site and would have no objections in principle to the proposal. The construction management plan submitted with the application is generally acceptable to the highway Authority however the highway Authority would seek access improvements as follows.

Primary access is acceptable however the visibility splay to the south should be 2.4m back along the centre line of the drive and extending to a point 43m to the centre line of the public highway to the south. In addition swept path or articulated lorries into this access should be provided and radii should be amended accordingly, the access should be in a sound bound material for the first 20.00m and drained to prevent no surface water onto the public highway.

Secondary access to A should be hard surfaced in a bound material for the first 6.0m and visibility splays of 2.4m by 33m to the nearside kerb to the west and 33.m to centre line to the east should be provided to reflect the observed speed of 25-30 mph, these splays should also apply to the new proposed access to area B and to Area C. Should the existing access at B be utilised a similar visibility is required. All accesses should be hard surfaced in bound material for the first 6.m or greater and drained to prevent surface water entering the public highway. The Highway Authority welcomes the provision of wheel washing and road sweeping, in dry weather dust suppression should also be provided. The Highway Authority also accepts the pre, during and post construction surveys and invites the applicant to contact the highway Authority to arrange the inspections and recording of any defects.

The Highway Authority would seek traffic management to warn drivers of the increase in slow moving vehicles exiting from and entering B3181 at the Merry Harriers. Therefore should consent be granted the following conditions should be imposed and the plans, construction management plan should be conditional of any consent.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. The site access roads shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway.

REASON: To prevent mud and other debris being carried onto the public highway

2. Visibility splays shall be provided, laid out and maintained for that purpose at the Primary site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in a southern direction and as identified on the access plan in the other direction.

REASON: To provide adequate visibility from and of emerging vehicles.

3. Visibility splays shall be provided, laid out and maintained for that purpose at the other site accesses in accordance where the visibility splays provide intervisibility between any points

on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33.00 metres in on coming direction and 33.00 metres to the centre line in the offside direction.

REASON: To provide adequate visibility from and of emerging vehicles.

4. No other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

REASON: To ensure that adequate facilities are available for the traffic attracted to the site.

5. Off-Site Highway Works No development shall take place on site until the off-site highway condition surveys have been undertaken and approved in writing by the Highway Authority.

REASON: To minimise the impact of the development on the highway network in accordance with National Planning policy Framework.

#### **Devon County Historic Environment Team**

A programme of archaeological work, consisting of geophysical survey and field evaluation has been undertaken on this site. These investigations have demonstrated that the site is largely of low archaeological potential. However, a single - as yet undated - iron furnace was exposed within one of the evaluation trenches. This indicates the presence of previously unrecorded iron working in this area. There was an iron extraction industry operating across the Blackdown Hills to the east from the early Roman through to the medieval periods. A sample has been submitted for radiocarbon dating and the applicant will be undertaking appropriate assessment and analysis of palaeo-environmental and metallurgical samples.

In the light of this new information the Historic Environment Team are able to withdraw its previous objection and would recommend that the impact of development upon the archaeological resource associated with the area where iron working has been identified here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme,

or such other details as may be subsequently agreed in writing by the Local Planning Authority.

#### Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of the area around the iron furnace identified in the initial field evaluation to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to:

<https://new.devon.gov.uk/historicenvironment/development-management/>

#### **Revised Comments – 18<sup>th</sup> February 2021**

A programme of archaeological work, consisting of geophysical survey and field evaluation has been undertaken on this site. These investigations have demonstrated that the site is largely of low archaeological potential. However, a single - as yet undated - iron furnace was exposed within one of the evaluation trenches. This indicates the presence of previously unrecorded iron working in this area. There was an iron extraction industry operating across the Blackdown Hills to the east from the early Roman through to the medieval periods. A sample has been submitted for radiocarbon dating and the applicant will be undertaking appropriate assessment and analysis of palaeoenvironmental and metallurgical samples.

In the light of this new information the Historic Environment Team are able to withdraw its previous objection and would recommend that the impact of development upon the archaeological resource associated with the area where iron working has been identified here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

#### Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of the area around the iron furnace identified in the initial field evaluation to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to:

<https://new.devon.gov.uk/historicenvironment/development-management/>.

#### **Devon County Lead Flood Authority**

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

#### Observations:

The applicant has not provided any information in relation to the disposal of surface water from the site (specifically the 590m<sup>2</sup> of impermeable area from the substation, DNO equipment and central inverters) to enable me to make observations on the proposal. Due to the size of the impermeable area the surrounding grassed area will not be an adequate means of surface water drainage. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from this area will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which can be found at the following address:

<https://www.devon.gov.uk/floodriskmanagement/sustainable-drainage/suds-guidance/>.

It is understood that the site will be grassed, we would suggest a hardy/ tussock species of grass for the strips on the down side of all the solar panels to reduce the potential for erosion. The applicant should also consider planting around the watercourses to provide a further filter for sediment should erosion occur.

#### **29.01.21**

Following my previous consultation response FRM/MD/01679/2019, dated 30/10/2020, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

Flood Risk Assessment Langford Solar Farm, Devon, Job Ref BR-629-004, Rev 5

We are pleased to see that a french drain and swale is being proposed to manage the runoff from the impermeable area in the south west of the site. However the calculations indicate that a value of 20% was used for climate change rather than 40%.

Due to the length of the proposed swale consideration should be given to the use of check dams.

The applicant should explain why swales are only proposed to manage the runoff from one of the areas proposed for the solar PV panels.

We would be happy to provide another substantive response if additional information is submitted to the local planning authority.

#### **4.02.2021**

Following my previous consultation response FRM/MD/01679/2019, dated 29/01/2021, the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 02/02/2021, for which I am grateful.

Technical Note, Response to DCC Objection Langford Solar Farm, 629-0004 dated 2nd February 2021

The applicant has updated the calculation in Micro Drainage based on our requirement for 40% for climate change for the attenuation volume. The calculation indicates that the swale can accommodate the 40% climate change allowance, 20% was previously used within the design.

The freeboard has lessened however we feel due to the nature of the proposals being a solar farm, this is acceptable in this instance.

The applicant has considered the use of check dams within the swale but considers that they are not appropriate here due to the gradient of the swale being 1 in 150.

To summarise, the applicant is proposing a filter drain and a swale to manage the runoff from the substation/ battery units and inverter cabins. Grass will be maintained below the panels in line with best practice and a buffer strip will be utilised downslope of the solar panels. Additional swales are also being proposed to manage the runoff from the solar fields in a field located outside of the fluvial flood zones.

The applicant should be mindful of easements adjacent to ordinary watercourses and that a Land Drainage Consent would be required for any works to an ordinary watercourse at this site. The applicant has confirmed that the drainage will be maintained by either the landowner or a management company. All proposed drainage devices should be maintained as should the scrapes and buffer strips.

#### **Environment Agency**

We have reviewed the document titled 'Response to Environment Agency' dated 2<sup>nd</sup> December 2019 by Kris Tovey of Calibro Transport, Flood and Infrastructure consultants and advise that our position remains that of our previous letter dated 30<sup>th</sup> October 2019. We

maintain our objection to the proposed development. The reason for this position and advice is provided below.

Reason – As a statutory consultee, we advise your authority regarding planning proposals in accordance with policy contained within the National Planning Policy Framework (NPPF), and its associated Planning Practice Guidance (PPG).

This response highlights two important issues very much embedded into the above government planning policy documents that would potentially significantly affect the size and layout of the proposed Solar Panel Farm, these being the Flood Risk Vulnerability Classification of the proposal, and issue the Sequential Test.

#### Flood Risk Vulnerability Classification

We bring to your Authority's attention Table 2 of the PPG which states the following:

'Essential infrastructure

- Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.
- Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations; and water treatment works that need to remain operational in times of flood.
- Wind turbines.'

In light of the above statement we advise your authority that Solar panels, and associated infrastructure, do not require to be in areas at risk of flooding for operational reasons.'

We also bring to your attention the fact that Solar Panels, and associated infrastructure' are also not included in the definitive list of 'Essential Infrastructure' in Table 2.

Given the above we disagree with the statement in the Closure section of Calibro's letter of the 2 December 2019 that 'The proposed development constitutes essential infrastructure..' and thus we maintain our objection to the provision of Solar Panels or other associated infrastructure within areas of 'Functional floodplain' FZ3b. By definition any development of the type sought within FZ3b would be 'inappropriate'.

#### The Sequential Test

We bring to your Authority's attention the following sections of the PPG.

##### The sequential, risk-based approach to the location of development

##### What is the sequential, risk-based approach to the location of development?

This general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible.

Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds. According to the information available, other forms of flooding should be treated consistently with river flooding in mapping probability and assessing vulnerability to apply the sequential approach across all flood zones.

##### The aim of the Sequential Test

##### What is the aim of the Sequential Test for the location of development?

The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The [flood zones](#) as refined in the Strategic Flood Risk Assessment for the area provide the basis for applying the Test. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the [flood risk vulnerability of land uses](#) and consider reasonably available sites in Flood Zone 2 (areas with a medium

probability of river or sea flooding), applying the [Exception Test if required](#). Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

#### Who is responsible for deciding whether an application passes the Sequential Test?

It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.

With these three fundamental statements in mind we confirm that:

- The principle of providing Solar Panels or other associated infrastructure within areas of Flood Zone 2, and then areas of Flood Zone 3a, would be acceptable subject to MDDC confirming they deem the Sequential Test has been applied and passed.
- The principle of providing Solar Panels, and associated infrastructure, within areas of 'Functional floodplain' FZ3b is clearly contrary to written government planning policy.

#### Functional Floodplain

On the subject of 'Functional Floodplain' FZ3b we bring to your Authority's attention the fact that the applicant's Flood Risk Assessment does not differentiate between which parts of FZ3 are FZ3a (high risk) and which parts are FZ3b (functional floodplain). This is vitally important so that Local Planning Authority can be in a position to apply the Sequential Test for the area of Flood Zone 3, and thus identify the areas where inappropriate development should not be permitted. In the absence of not knowing which parts of Flood Zone 3 are functional floodplain i.e. FZ3b, your authority should consider the area of Flood Zone 3 as all being Flood Zone 3b (functional floodplain). Such a stance would conform with policy contained within MDDC's Strategic Flood Risk Assessment.

#### **21.12.2020 Revised Comment**

Based on the revised Flood Risk Assessment (FRA) by Calibro dated 30 Nov 2020 and the revised site layout (918-1820\_14 REV J) we are able to remove our objection to this proposal. We recommend that a condition is included within any permission granted to ensure that the mitigation measures proposed in the FRA are implemented, including the level for level floodplain compensation outlined in paragraph 7.6.6 of the FRA.

Before determining the application your Authority will need to:

- confirm the vulnerability classification of the development with reference to the Planning Practice Guide; and
- if you agree with our conclusion that it is essential infrastructure, be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF.

Please let us know if you would like us to suggest wording for the recommended condition. Further flood risk advice is set out below.

#### Advice – Flood Risk

The applicant has submitted a revised FRA informed by revised flood modelling and advice we have given. We confirm that the FRA has satisfactorily assessed the flood risks and proposed acceptable mitigation measures.

We confirm that part of the site is located within Flood Zone 3b (functional floodplain).

However, the revised site layout (918-1820\_14 REV J) shows:

- no solar panels in the active functional floodplain (no build area);
- revised connected flood compensation areas;
- the use of deer fencing;

- the design of the panels 300m above ground level;
- enhanced scrapes to the no build area;
- minimal culverting of the watercourse for access routes.

These measures are acceptable to minimise flood risk from the development

#### Advice – Vulnerability Classification

Based on the characteristics of the development and conversations our National Office are having with MHCLG, we consider that it should be considered in the same light as wind turbines, i.e. essential infrastructure. However, the vulnerability classification of this development remains your Authority's decision on.

Your view on this will be important because less vulnerable development should not be permitted within functional floodplain, but essential infrastructure can be acceptable in principle (subject to the Sequential Test).

#### Informative – Environmental Permitting

Under the terms of the Environmental Permitting (England and Wales) Regulations 2010 a permit is required for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the river. Further details and guidance on how to apply or register an exemption are available on the GOV.UK website:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

### **Natural England**

#### Climate Change

Natural England recognises that climate change represents the most serious long term threat to the natural environment because of the damage it will cause to ecosystems, the biodiversity, landscape value, and services to society which they support. Solar energy developments have an important role to play in meeting national targets to reduce UK contributions to greenhouse gases. The present challenge is to move to a low carbon economy without unacceptable impacts on the natural environment.

#### Designated sites

Details of designated sites can be found at [www.magic.gov.uk](http://www.magic.gov.uk) The proposal does not appear to trigger any relevant thresholds within Natural England's designated sites Impact Risk Zones(\*2) (IRZs). It is our advice, on the basis of the material supplied with the consultation, that, in so far as statutory designated sites are concerned, there are no potential impacts.

#### Protected Landscapes

The proposed development is for a site within 6km of the Blackdown Hills Area of Outstanding Natural Beauty (AONB) and has triggered Natural England's Impact Risk Zones for solar developments greater than 10ha. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape. Alongside national policy you should also apply landscape policies set out in your development plan or appropriate saved policies.

We note that you have consulted the Blackdown Hills AONB Partnership but they have yet to comment. They will have knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, which will be a valuable contribution to the planning decision.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

All proposals should complement and where possible enhance local distinctiveness and be guided by your Authority's landscape character assessment and the policies protecting landscape character in your local plan in determining the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

Your Authority's supplementary planning document (SPD) 'Solar pv developments in the landscape 2016' suggest that all landscapes in Mid Devon are sensitive to very large schemes (>15ha) and outlines out a set of principles to follow.

You may also find useful the Devon Landscape Policy Group Advice Note No. 2: 'Accommodating Wind and Solar PV Developments in Devon's Landscape' particularly with reference to cumulative impacts and siting and design.

#### Biodiversity net gain

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 170 and 174 of the revised NPPF (\*3) (2019), the Defra 25 year Environment Plan (\*4) and the Environment Bill (\*5).

We advise you first to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and consider what existing environmental features on and around a site can be retained or enhanced before considering what new features could be incorporated into a development proposal.

An evidence based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions (\*6) (under Section 40 NERC Act, 2006). Biodiversity metrics (\*7) are available to assist developers and local authorities in quantifying and securing net gain. The Environment Bill sets out a 10% net gain threshold.

Natural England's Technical Information Note Solar parks: maximising environmental benefits (TIN101)(\*8) provides a summary of advice about their siting, their potential impacts and mitigation requirements for the safeguarding of the natural environment. You may also wish to note the industry guidance 'Solar farms and biodiversity opportunities'(\*9)

Consideration could be given to the use of SuDS features in managing surface water run-off from the panels to prevent soil erosion.

We note that the proposal includes maintaining established field boundaries, planting native hedgerows and trees, enhanced wildlife corridors through the site and new species rich grassland around the panels and our advice is that any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP). There may also be the potential for the development to have a wider positive impact by financially contributing to local environmental / social initiatives in the Parishes affected to help connect people and wildlife.

#### Soil and land quality

From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the

loss of over 20 ha 'best and most versatile' agricultural land (BMV) (paragraph 112 of the National Planning Policy Framework).

The Agricultural Land Classification report (Davis Meade Agriculture October 2019) indicates that the land affected is predominantly Grade 3b and not therefore BMV agricultural land.

For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils, although more general guidance is available in Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend that this is followed. If, however, you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

We note that the panel arrays would be mounted on steel posts driven into the ground and that no substantial areas of concrete construction would be required, with the exception of foundations for the Inverter, the sub-station buildings and the battery storage facility, meaning that the panel arrays could be removed when planning permission expired with no likely permanent loss of agricultural land in the long term.

Whilst soil would be disturbed in some parts of the site through the construction of the switch station and access tracks and installing of buried cables this equates to a relatively small area and much of the soil disturbance is likely to be reversible during decommissioning.

Based on the information provided, the agricultural use of the land would subsist alongside the proposed PV panels through the grazing of sheep and that the land would be restored to full agricultural when planning permission expired (approximately 40 years).

Detailed guidance is available in Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks) and we recommend that this is followed.

We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2014).

#### Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has produced standing advice (\*10) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - Guidance Note 8 Bats and Artificial Lighting (\*11). They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats.

Where security fencing is proposed it should be permeable allow the continued movement of species through the wider landscape and we note that this has been accounted for.

#### Ancient Woodland and veteran trees

We note that there may be ancient/veteran trees within the development site. Natural England and the Forestry Commission have produced standing advice for ancient woodland and veteran trees [http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland\\_tcm6-32633.pdf](http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland_tcm6-32633.pdf).

Local authorities have a vital role in ensuring their conservation, in particular through the planning system. When determining planning applications, local planning authorities should apply the following principles (NPPF para.175):

- if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts); adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

Should the proposal change, please consult us again.

### **Blackdown Hills AONB Partnership**

Do not wish to comment.

### **RSPB**

Do not wish to comment.

### **Exeter Airport**

No objections.

### **Historic England**

This application is for the construction of an extensive solar array in an area which typifies the rural Mid Devon landscape, consisting of gently rolling countryside interspersed with vernacular buildings. A considerable number of those buildings are listed as being of architectural and historic interest and therefore their setting warrants special consideration in the consideration of any impact which might be caused by the development, as set out in Historic England's Good Practice Advice In Planning Note 3 - The Setting of Heritage Assets.

Of the listed buildings within close proximity to the application site that fall within our planning remit, Langdon Court, a grade II\* late medieval (and later) house has the potential for its setting to be most directly affected. This is due to its position 350m from the nearest extent of the solar array, and the fact that the array extends across a considerable extent of landscape which forms a backdrop to the north of the Court. We have not had the opportunity to visit the site in order to make a closer inspection of Langford Court and its setting, but consider that any potential for harm to this highly graded building needs careful consideration, as is set out in paragraphs 193-194 within the NPPF.

The applicant's heritage statement provides a detailed assessment of the potential impact of the development on Langdon Court, concluding that it would result in "no harm" to its setting. This conclusion is reached due to the view that the array won't be visible from the house itself, combined with the previous erosion of its setting considered to have been caused by the development around it in the twentieth century of a large industrial-scale farmyard and its accoutrements.

We would not entirely agree with the author of this report that the wider agricultural setting of the Court is of minimal significance to its setting. Our view is that a vernacular building that originated as the focal point of an agricultural estate has a meaningful relationship with the surrounding farmland in both functional and visual terms - as has been accepted by planning inspectors in a number of appeals for similar developments.

The Landscape and Visual Impact Assessment identifies the potential visual impact of the array on Langford Court by selecting a location on a public footpath immediately to its east looking towards the array. This viewpoint forms the basis of a photomontage which

illustrates that a wide array of solar panels could be intervisible with the house, as it is approached and passed on the footpath.

It would have been useful if a viewpoint could have been provided to show whether a view of the front of the house itself would be changed by acquiring a backdrop of solar panels. That change from currently undeveloped fields (as evidenced in the images in the LVIA) to an industrial array of solar panels, regardless of how much the immediate setting of the house is affected by modern farm buildings, would only cause more harm to its setting.

In relation to GPA 3 - The Setting of Heritage Assets, the sequential test set out as a means of assessing whether an unacceptable impact would be caused to a heritage asset, makes clear that harm should preferably be avoided or minimised. We would question whether the extent and location of the development has taken sufficient account of achieving that objective. We would request that the Council's heritage specialist makes an independent assessment of the setting of Langford Court, to judge the level of potential harm that might be caused to its setting and whether that harm could be avoided or minimised to an acceptable level.

We are satisfied that your own specialists can take an informed view of the level of harm that might occur to the setting of Langford Court once a site visit has been made, and it is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. If you would like detailed advice from us, please contact us to explain your request.

### **Conservation Officer (MDDC)**

The heritage aspects of this application relate to the setting of listed buildings including one grade II\* building.

The starting point for the considering of applications which affects a listed building or its setting is the statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (section 66).

The Court of Appeal has made it absolutely clear that the statutory duty in relation to section 66 does not allow a local planning authority to treat the desirability of preserving the settings of listed building as a mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a development would harm the setting of a listed building it must give that harm considerable importance and weight. Finding of harm gives rise to a strong presumption against planning permission being granted. This presumption is a powerful one, but not irrefutable. It can only be outweighed by material considerations powerful enough to do so.

Applicants for consent that affects a heritage asset must be able to justify their proposals. The NPPF says that the LPA should require an applicant to describe the significance of any heritage asset affected including any contribution made to their setting. This should be sufficient to understand the potential impact of the proposal on its significance. As a minimum the Heritage Environment Record should have been consulted and the building assessed using appropriate expertise where necessary. When considering the impact of development, **great weight** should be given to the asset's conservation. Any harm or loss should require clear and convincing justification from the applicant. Any harm should be judged against the public benefit, including securing the optimum viable use. (The optimum use is the one that causes the least harm to the significance of the asset).

This approach is reinforced by policy DM27 LP3 and it requires development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them. It also goes on to state that where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit.

Advice on how to assess the setting of heritage assets is given in the Historic England general advice note 3 – The Setting Heritage Assets.

The applicant has submitted both a heritage statement and a LVIA.

The applicant in 5.2 of their heritage statement identifies assets as potentially susceptible to indirect impact as being shown on Figure 2. This figure identifies over 80 listed buildings, and omits the Conservation Area in the area covered by the map. The legend relates to the listed buildings but does not explain the black dashed line. This may be the zone of influence. There are 18 listed buildings within this area.

The applicant states that the buildings identified in figure 2 were inspected during a site visit. The only asset that was found to warrant further assessment comprised the Grade II\* listed Langford Court. There is further discussion at 5.48 which lists some of the buildings and explains that the intervening distances; the lack of material inter-visibility; the lack of relevant non-visual associations; lack of third points from which both are visible within the same view shed to any material extent; negates the potential for development within the site to adversely affect their heritage significance. This lacks detail and does not justify the proposal in the context how a building has gone from being potentially susceptible as identified by the applicant to not to warrant further assessment. Whilst accepting that any submission should be proportionate, the submission is an assertion not a reasoned justification. This step should be further explained to justify and explain the proposal where there is a statutory duty to have special regard to the setting of listed buildings.

The applicant does go further with the Grade II\* Langford Court. This is a large building, now two houses with associated historic outbuildings, set on a small promontory on the side of the valley. The listed group sit on a level platform, with the land continuing to rise to the west. The building is painted white and is visible and prominent in the landscape.

GPA 3 advises us that significance relates to how an asset is experienced. This includes views to and from the asset. Views do not have to be designed and may be long views. At 5.49 and 6.4 the applicant states that all key views towards and from all the identified heritage assets have been assessed.

The Heritage statement identifies the effect on views from the Langford Court to the east to be negligible. Negligible is not none. It may be too small or too slight to be considered of importance to the author of the report but it should be noted that it is registerable.

I can see no such assessment of the views from the east towards Langford Court in the Heritage Statement.

This view is considered in the LVIA as viewpoint 7 and 7A. Their Landscape Architect considers the value of the view, which includes the highlighted Langford Court, to be medium with Medium Sensitivity. It states “The proposed solar farm battery storage and substation would be distinguishable in the mid-ground” and goes on to assess the impact to be minor to moderate.

The battery storage and substation includes a spare parts container, a battery inverter, a customer cabin, a client substation, a DNO substation, a control room and a 132KV Substation Gantry. The area is roughly 100m by 40m. The overall height of the buildings is about 3m above ground level. It is assumed that there will be a number of 4m camera positions, and a fence for the compound, but again no details. There are no lights shown to facilitate safe access for workers, but these are highly likely.

This and the array in the field behind sits in the key view of Langford Court across the valley. This area is identified as field number 13 by the Consultant the Council retained to review the applicants LVIA. Their assessment is that the level of change is greatest in two sectors including field 13. It states the introduction of the built structures as part of a large complex of cabins and battery storage would result in a high scale of change to field 13. This is ultimately assessed as having an overall visual effect of Minor to Moderate.

In my view, with regard to the experience of the heritage asset, there will be a noticeable localised Moderate harmful change in the view to Langford Court from the road at Plymtree identified as view point 7. This will result in a slight to moderate negative impact on the experience of this Grade II\* listed building by the introduction of a new and prominent element into the view, which will draw the eye and compete with the heritage asset, and the

loss of a typical rurality of agricultural and other features that are expected in the countryside.

There would also be adverse changes to views from Viewpoints 5 and 6 as assessed by our consultant.

View 6 includes views from the west of the site and includes Langford Court in the view of the wider landscape. I would be of the view that in terms of the setting of Langford Court, this proposal would noticeably change the setting and experience of the asset, resulting in a Minor Magnitude of impact and a Slight negative harm, in that the asset will be read against a landscape which has had a major impact in visual effect.

View 5 is from the public footpath to the front of the Langford Court. This is on the lip of the small plateau the house sits on. I have not been into the house, principally the upper floors, but the view from the outside of the house at ground floor level is quite different than that from the footpath, as the house is set back from the edge of the plateau and cannot see down into the full width of the valley. However the existing garden extends up to the footpath, and although it is agreed that this present garden is not historically significant, it is the area where the house is currently appreciated. The applicants LVIA assess the impact as Moderate on residents and PROW users, our consultant: Major. Due the reduced significance of the view point and the lack of direct visibility, at least from ground level at the house, my assessment would be a noticeable change to setting resulting in a Negligible magnitude of impact and a Negligible adverse harm to the experience of the asset.

Overall the applicant has failed to justify the assertions made with regard to the Grade II listed buildings. The heritage assessment of the grade II\* building has failed to take into account the long views of the building which relate to the experience of the asset. The proposal would result in registerable harm to the significance and setting of the grade II\* listed Langford Court which must be given considerable weight and importance by statute and be contrary to the NPPF and Policy DM27 of the adopted Local Plan.

### **Devon Wildlife Trust**

Whilst it is acknowledged that solar farms can often provide opportunities for improving the biodiversity of fields in agricultural use, the extent to which they will actually do so depends on effective, on the ground, implementation. Any planning decision will therefore need to be made with confidence about the biodiversity mitigation & enhancement measures proposed. Will, for instance, new habitat be effectively created (in terms of quantity & quality); managed (to maintain this quality); monitored (to detect & resolve any issues arising); and is there a source of funding for carrying out these actions?

Unfortunately, **the documents submitted with the above planning application do not give the required confidence that the habitat mitigation proposed will actually be effectively implemented.** Our reasons are as follows.

Effective creation of mitigation habitat (in terms of quantity & quality). No figures have been submitted for the loss of existing habitats (of various types & quality). Similarly, it is not known how much newly created habitat, (of various types & quality), is being proposed.

The National Planning Policy Framework requires 'net gains' in biodiversity (NPPF para. 170) and these net gains should be '**measurable**' (NPPF para. 174b.).

The National Planning Practice Guidelines (Natural Environment para.022) state- "The NPPF encourages net gains for biodiversity to be sought through planning policies and decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development.....It may help local authorities to meet their duty under Section 40 of the NERC Act 2006".

This recommended that the following should 'inform further detailed design and any discharge of planning conditions' -

- new species-rich grassland
- new planting
- bat roosting and bird nesting measures
- the above would be detailed in an Ecological Enhancement & Management Plan which can be secured by a planning condition on any consent.

The National Planning Practice Guidelines (Natural Environment para.023) states that –

“Care needs to be taken to ensure that any benefits (for wildlife) promised will lead to genuine and demonstrable gains for biodiversity”

We believe that more detail is required before the above can be satisfied. For instance, how long will it take to establish the proposed grassland to the required 'species-rich' quality? How much, where and what type of new planting is proposed? It is not sufficient to say that these matters will be dealt with in a future Ecological Enhancement & Management Plan. They need to be known before a decision can be made on a planning application having implications for such a large area of countryside.  
Managed (to maintain the quality proposed)

Similar to the above, more details about how the proposed and existing habitats are to be managed is required before the application is decided. For instance, who is going to manage the new habitat and for how long?

Monitored (to detect & resolve any issues arising)

The Ecological Enhancement & Management Plan will need to include provision for monitoring. A close eye needs to be kept on the newly created or enhanced habitats, as they evolve, to ensure that they meet expectations. We would recommend that a habitat restoration ecologist be involved in drawing up such an EE&M Plan and be involved in subsequent managing, maintaining and monitoring, to give credibility to any proposals, findings and any suggested remedial action.

Funding

The source of funding needs to be identified for the life of the project, to cover the costs of habitat creation, management, monitoring and any remedial action.

## **REPRESENTATIONS**

136 representations have been received from the general public.

36 letters of objection have been received, including from the Campaign to Protect Rural England, raising the following material concerns:

- The proposal is too big, particularly when considered in combination with a separate solar farm located nearby.
- There would be a loss of trees and harm to wildlife.
- There would be a loss of prime agricultural land for a long period of time.
- The loss of grazing land as a result of the grasses receiving insufficient sunlight.
- The proposal would harm the rural character of the area and dominate the village.
- Potential harm to human health as a result of radiation.

- Harm to highway safety and amenity, particularly during the construction phase. The local highway is considered sufficient to accommodate additional traffic, particularly heavy goods vehicles.
- Potential noise nuisance during construction, and once operational.
- Harm to neighbouring amenity as a result of noise and disturbance.
- Screening should be installed/planted prior to construction starting.
- Impact on neighbouring businesses, including a camp site and bird-of-prey related enterprise, owing to noise and disturbance, and difficulty retrieving birds that may land in the site area once the development is in place.
- The proposal would worsen flood risk and surface water run-off, with potential for soil erosion.
- The proposal would not provide a consistent or reliable supply of energy and there is a lack of information about the capacity and usefulness of the proposed batteries.
- Risk of pollution as the solar panels degrade over time.
- The benefits of the proposal are significantly outweighed by the harm in terms of the landscape, loss of greenfield land, and the environment.
- The proposal would be harmful to the Grade II\* listed Langford Court.
- The proposal will eventually become redundant and derelict.

2 letters of support stating that:

- Renewable energy facilities will help to address climate change.
- The visual impact will be limited owing to flat ground and use of screening.
- The proposal can be removed at the end of its life and the land restored.
- Grazing can continue on the land and biodiversity can be enhanced compared to the existing situation.
- The proposal would not worsen flood risk.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

1) Principle of Development:

The proposal is for a renewable energy facility, located in open countryside and must be assessed against the policies of the Development Plan. An application which is in accordance with the Development Plan must be approved unless material considerations indicate otherwise.

The key policies of the Mid Devon Local Plan 2013 – 2033 are S9 and DM2. Policy S9 of the Local Plan allows for renewable energy development where there is an acceptable local impact....balanced with the wider sustainability benefits of renewable energy. Policy DM2 has a presumption in favour of renewable energy proposals provided that the proposal does not have significant adverse impacts on the character, the amenity and the visual quality of the area.

The Cullompton Neighbourhood Plan 2020 – 2033 is supportive of the increase use of renewable energy subject to controlling the impact of renewable energy installations.

The NPPF states that the planning system has three overarching principles - economy, social and environmental. The environmental objective includes “mitigating and adapting to climate change, including moving to a low carbon economy. The NPPF builds on this principle and defines renewable energy in the following way:

*“Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun*

*and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).”*

Paragraph 148 of the NPPF states that:

*“The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.”*

Paragraph 154 of the NPPF states that:

*When determining planning applications for renewable and low carbon development, local planning authorities should:*

*a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*

*b) approve the application if its impacts are (or can be made) acceptable...”*

Taking the policies of the Local Plan and the material consideration of the NPPF, it is considered that there is support for the development of renewable energy facilities within the open countryside. On this basis there is no objection to the principle of a solar farm in the open countryside.

It should be noted that there are other solar farms in the vicinity including the Cullompton Solar Farm (previously known as the Winham Solar Farm), which was approved on appeal by the Planning Inspectorate and has been operational since December 2015.

## 2) Visual Impact and Heritage Assets

Policy DM1 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM2 states that proposals for low carbon or renewable energy will be permitted where they do not have significant adverse impacts on the character, amenity, and visual quality of the area, including cumulative impacts of such developments. Policy DM25 seeks to ensure that a development proposal does not cause significant harm to a heritage asset or where it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the NPPF are met.

### Visual Impacts

The applicant submitted a Landscape Visual Impact Assessment as part of the application, and this was considered against the policies of the Local Plan 2021 – 2033 and the Council's Supplementary Planning Document (SPD) –Solar PV Developments in the Landscape (2016).

The SPD identified three main principles against which a solar PV development must be considered against

Principle 1: Solar PV developments should minimise their effects on the landscape through sensitive siting and design.

Principle 2: Solar PV development should be of a size and scale appropriate to the landscape, with particular regard to its sensitivity to change as a result of such development.

Principle 3 Solar PV development proposals should include an assessment of landscape and visual effects, taking into account the location of the site's landscape sensitivity as well as that of adjoining Landscape Character Types and Areas (where appropriate). The cumulative effects of existing and consented solar PV development in the surrounding area should also be considered.

It is acknowledged that the proposed solar farm would introduce a new and uncharacteristic feature to the landscape of this part of Mid Devon which may have an impact upon the character of the area. The SPD assesses that the host landscape (Lowland Plains) has a landscape with medium sensitivity to solar PV development – although it is highly sensitivity to very large solar PV developments (such as the proposal). Though it should be noted that the SPD is a high level guidance documents and should not replace an individual site assessment for a proposal of this kind.

The applicant submitted a Landscape Visual Impact Assessment for the solar farm. The applicant considered that the visibility of the proposal would be limited by the surrounding landforms of the rolling countryside, the intervening vegetation and the distance of the site. In addition the low profile of the panels would not be easily perceptible in most views from publicly available viewpoints, which are limited in number.

Following on from this the Council had an independent review of the LVIA carried out due to the size of the development within the Mid Devon rural landscape.

The independent review concluded in the wider landscape, the development would result in the change of rural character over an extensive area of the local landscape and would result in the introduction of new, uncharacteristic elements into the landscape. While the arrays would be noticeable in the local landscape, their full scale would only be perceived in a few locations on high ground at some distance from the site. In the local area, existing tree growth, substantial hedgerows and the generally flat topography would help to mitigate the overall scale of the proposal.

The Visual effects are considered to be in line with those predicted in the LVIA, with the exception of VPs 5 (Langford Court) and 6 (Hill west of Clyst Hydon), where effects are assessed as major adverse and moderate/major adverse respectively. It is acknowledged that the introduction of PV solar arrays at this scale would introduce a prominent new element into the view behind Langford Court ( Grade II\*) The nature of the view would change from one of typical rurality containing only agricultural and natural features to one where PV solar array was evident and prominent. The view would be of a rural, farmed landscape containing PV solar array as a defining element.

The proposal overall would lead to lesser landscape and visual effects than might be predicted from the SPD assessment of the host landscape. As a result, it is considered that further mitigation (other than reducing the overall scale of the proposal) would have little effect on further reducing landscape or visual effects.

It should be noted that the independent review did not disagree with the LVIA conclusion in relation to VP7 from the edge of Plymtree and taking in Langford Court in the mid distance. It is considered that there would be a minor/ moderate impact on the landscape. The proposed solar farm battery storage and substation would be distinguishable in the mid-ground. Proposed planting would further screen this area over time.

Overall the proposal will have a moderate/ minor impact upon the landscape of the area, though there are areas of concern with two of the viewing points with major and moderate/major concerns. Taking the 61ha site as whole it is considered that the harm

identified with VPs 5 and 6 is not sufficient to warrant the refusal of the development on impact to the landscape character.

#### Heritage

There are no designated heritage assets within the site; however Langford Court, a Grade II\* building is a heritage asset outside but in close proximity to the development site. This heritage asset is identified as having potential impacts by the proposal.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. The importance of considering the impact of new development on the significance of designated heritage assets is dealt with in section 16 of the NPPF. This section advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm requires clear and convincing justification.

The setting of heritage assets is defined in the glossary of the NPPF as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surrounding evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Langford Court is a Grade II\* house, which was originally the centre of a 465 acre estate. Over time the grounds have been divided to accommodate an intensive agricultural regime of sheds, barns, silos and tanks. Langford Court, is now used as two separate dwellings, and has agricultural buildings surrounding to the North, North West, South West and a fishing lake to the East. The consideration of harm to the setting of Langford Court by the solar farm, must be seen within the context of the setting of the Court which has been altered by the agricultural buildings.

It is clear from the submitted Heritage Assessment that the overall views of the solar panel array from Langford Court itself would not cause harm to the setting of the house. Both Historic England and the Council's Conservation officer state that the issue is the impact of the location of the solar panel array in the south eastern part of the application site upon the setting of Langford Court. It has already been recognised through the LVIA discussion that the view from the west towards Langford Court (to the east) will change from the house with a rural landscape to the house with a back drop of the solar panel array. This view has been designated as major adverse view upon the landscape. In contrast the view from the edge of Plymtree looking east towards Langford Court and over the array has a moderate impact on the landscape.

There is no doubt that the introduction of the solar farm in this location will have an impact upon the setting of Langford Court, in particular when looking from the west to the east. Having reviewed the setting and taking account of the consultations it is considered because of the distance, the visual impact of the panels would be limited and would be a small part of the wide countryside setting of Langford Court, the overall impact would be less than substantial harm.

Paragraph 196 of the NPPF states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. This is reiterated by Local Plan policy DM25 (d).

In terms of the public benefit the solar farm of this size will generate a significant amount of electricity from renewable sources. In context the proposed solar farm can meet the energy needs of approximately 10,077 homes in the Mid Devon District. This would be a substantial

benefit to Mid Devon and would mean that Mid Devon would be contributing to the aims of Devon Climate Emergency Response Group by reducing carbon emissions.

It should also be noted that the scheme would represent a substantial investment of £40,000,000. The development will also support between 70 and 80 direct and indirect jobs during the construction phase and a smaller number of jobs when the solar farm is operational

Taking account of the public benefit of the scheme in the production of renewable energy balanced with the less than substantial harm impact of the solar farm on the setting of Langford Court, it is considered that the proposal on balance accords with Local Plan policies DM2 and DM25 and the provisions of the NPPF.

### 3) Access Arrangements

Policy DM1 of the Local Plan states that new development should be safe and accessible.

The proposed development is making use of existing access points off the lane which links the B3181 to Langford, and the lane which links Langford Green with the Plymtree. The primary access to the site will be via the farm access to Tye Farm, and that the secondary access points will make use of the existing gated field access points from the Langford Green to Plymtree Lane. The Highway Authority has not raised any objections to the proposal subject to the use of conditions to secure improvements to the surface and the visibility splays of the existing access points.

In addition the applicant has submitted a construction management plan which has highlighted that during the construction period the primary access point at Tye Farm will be used for the delivery of materials by articulated vehicles. These will then be off loaded to smaller construction vehicles, to move the materials and equipment to the other parts of the site utilising the secondary access points. One of the key reasons for using smaller vehicles is to avoid issues with the bridge on the lane from the primary access to the secondary access, as the bridge has a 26t weight limit. The Highway Authority has welcomed the provision of wheel washing and road sweeping to keep the roads clean during the construction period. In addition the Highway Authority will seek traffic management measures to warn drivers of the increase of slow moving vehicles exiting and entering the B3181 at the Merry Harriers Public House. This is important as the speed limit on the B3181 is 60mph, and there is a need to ensure the safety of all highway users.

The parking for the contractors and the construction compound itself will be on the part of the site close to the access from Tye Farm. This will accommodate up to 80 construction workers during the setting up of the solar panel array and it is anticipated that the construction period will be 26 weeks. Once construction is completed there will only be limited access to the site for repair and maintenance. There will be no public access to the site.

The Highway Authority has recommended a number of conditions to be considered should planning permission be granted. It is considered that subject to the conditions the proposed access and parking arrangements are satisfactory and are in accordance with the Local Plan Policies DM2 and DM8.

### 4) Amenity

Policy DM2 states that renewable and low carbon energy development will be considered in relation to the environmental amenities of nearby properties. Policy DM7 of the Local Plan states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity.

Policy S9 allows for renewable energy developments where there is an acceptable local impact.

The applicant has submitted a Glint and Glare study about the solar panels assessing the impact of the solar farm on the activities of Exeter Airport, the adjoining residential dwellings and the local roads. The study has concluded that there will be no impact upon the operations of Exeter Airport and this is confirmed by the operator of Exeter Airport raising no objection to the proposal.

The study has identified that the solar farm array is likely to have a moderate impact upon a number of dwellings (16) which have a boundary with the proposed the solar farm. In order to mitigate this impact of glare the study has recommended that the boundary hedges are infilled and strengthened with planting, with the suggested hedge height of 3m. This has been supported by Public Health and to ensure that the hedge works are carried out and maintained, it is considered appropriate to condition this. The study has also concluded that the users of the two local roads adjacent to the site, will only be impacted in a limited way by glints from the array. This is due to the low speeds along the roads and existing boundary treatment of the fields to the road

Representations have been made about the life of the panels, potential noise from the panels and the risk of pollution from the degradation of the panels. In general solar panels have a life of approximate 30 years; however with the technology continually evolving it is anticipated that the life of the panels will increase. As part of the operation of the solar farm, there will be regular checks on the condition and operation of the panels, so replacement panels if needed can be installed. It is understood that the panels would have to be disposed of in accordance with Government requirement rules which follow on from the EU Directive – Waste Electrical and Electronic Equipment. This requires the producers of the panels to finance the end of life treatment for the panels.

The solar panels in themselves do not generate noise, and that is the associate equipment such as the transformers, inverters, battery and DNO Substation would give rise to a slight hum during operation but this would be contained to within the site boundary with the panels themselves silently converting solar irradiation to electricity. It should be noted that the noise would not occur at night as the solar power cannot be generated at night. In addition Public Health has not raised an objection to the scheme on the basis of noise.

HGV movements and construction/decommissioning may also generate noise for a temporary period. Even though the access is currently used by vehicles serving the farm, it is recommended that restricted hours of construction and deliveries are imposed by planning condition due to the varied nature of the use they would be linked to.

Given the proposal's siting, scale, and design in conjunction with the limited output in terms of noise emissions it is considered that it would not result in unacceptable harm in terms of neighbouring or local amenity. In this respect, the proposal is in accordance with Policies S9, DM2 and DM7 of the Local Plan.

#### 5) Flood Risk Drainage Arrangements

Policy S1 of the Local Plan seeks to manage the challenge of climate change by...increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources. Policy S9 deals with the Environment and states the provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk by applying sequential test where appropriate, and avoiding an increase in flood risk elsewhere.

The NPPF states in part 14 that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal changes. Paragraphs 155 to 165 (inc) deal with Planning and Flood Risk.

The NPPF directs development away from areas at highest risk of flooding employing a sequential approach. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. It goes on to say that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The NPPF continues by stating if it is not possible for development to be located in zones with a lower risk of flooding, the exception test may need to be applied. For the exception test to be passed it should be demonstrated that

- a- The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b- The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible will reduce the flood risk overall

The applicant has been in lengthy discussions with the Environment Agency and the Lead Flood Authority to resolve the issues in relation to flooding and drainage. The applicant has submitted a site specific Flood Risk Assessment as the site is greater than 1ha and with parts of the site within Flood zones 2 and 3.

The River Weaver is the main watercourse flowing across the central part of the site, in a south easterly direction before flowing east into the River Culm. Around the north of the site is a series of watercourses and drainage ditches which flow into the River Weaver. Another watercourse is located along the field boundaries in the south eastern area of the site. This watercourse flows from northeast to south west and subsequently discharges into the Upper Clyst. The development site is located across Flood zones 1, 2, 3a and 3b and essential infrastructure is allowed to be in these flood zones. The Environment Agency has stated that solar farms are regarded as essential infrastructure.

The Environment Agency Flood Map shows a large area around the central part of the development site to be in Flood zone 3. This zone is described as zone 3 b – The functional Flood plain - as there is a lack of modelling of a < 1 in 20 year flood event. The Environment Agency had a number of concerns about flooding in this area and has defined a “No Build” area which encompasses the area closest to the River Weaver. The applicant has removed all solar panels and fencing from this area. In addition the applicant will be providing a flood compensation area landscape to flows in and out of the functional flood plain, which will not aggravate the current flood plain environment.

The applicant has also agreed the following measures with the Environment Agency  
All inverters and DNO equipment, as well as the substation, are located in Flood Zone 1, which will allow for the equipment to remain operational in a flood event. The battery storage area in the south eastern part of the site will be raised 300mm above the existing ground level to provide protection against extreme flooding conditions. The areas of the site located within Flood Zones 2 and 3 will be allowed to flood as existing. This means all development within these areas, including any electrical cables and connections, will need to be resistant to flooding. Solar panels will be raised at least 300mm above the surrounding ground level in all flood risk areas and above the simulated 1 in 100 year +35% climate change level. Deer fencing will be used which allows water to flow through. The applicant proposes to use enhanced scrapes to improve drainage capacity which will have the added aspect of providing a wet field feature which is attractive to wildlife, thereby adding to the biodiversity of the site.

The constructed solar farm will only be accessible to staff and not members of the general public. Therefore, it will be the responsibility of the site managers to ensure that staff are

kept safe from flood risk. A flood escape plan would need to be prepared as part of the flood mitigation measures.

In general development of a solar farm does not have a significant effect on the existing run off rates and that is the case with this site. A surface water drainage strategy is proposed to manage runoff from hardstanding associated with the substation which will reduce runoff rates to as low as reasonably practicable. The proposed drainage strategy has been designed to accommodate surface water flows without flooding up to, and including, the 1 in 100 year storm event plus climate change. Additional swales are also being proposed to manage the runoff from the solar fields in a field located outside of the fluvial flood zones.

In terms of the sequential test as highlighted by the Environment Agency, the applicant has highlighted the need for a viable connection to the electricity network particularly as there is constrained grid capacity in Devon and costs will increase with distance from available connection points to the National Grid. The 132kV line which meets the south-eastern corner of the Application Site has sufficient capacity to accommodate the proposed scheme. This infield connection avoids the requirement for expensive long underground cabling to provide the connection which would make the scheme unviable if more than 1km in length. The need for the connection to the network has acted as a constraint to the siting of the proposed farm.

The applicant has also noted that there is no unconstrained non-agricultural land or any previously developed land in the vicinity for the proposal to be located at. In addition the land to the south and north - west of the site is classed as Grade 1 and 2 agricultural land and it would be unacceptable to develop prime agricultural land for a solar farm. It is considered that the applicant has taken account of the sequential test and as such no objection is raised on the basis of the sequential test.

The Environment Agency and the Lead Local Flood Authority are satisfied with the Flood Risk Assessment and the proposed mitigation measures. In terms of the NPPF exception test it is considered that as the proposal is for essential infrastructure it meets part a) of the test. In terms of part b), the development will not be open to the general public and will not result in an increase in flooding elsewhere. Overall it is considered that the exception test has been passed. Thus the proposal meets the requirements of policies S1 and S9 of the Local Plan.

## 6) Nature Conservation

Policy DM2 of the Local Plan states that proposals for renewable energy and low carbon development must consider the effects on biodiversity and avoid habitat fragmentation. Policy S9 of the Local Plan states that development will support opportunities for protecting and enhancing species population and linking habitats. The NPPF in paragraph 175 suggests that if there is significant harm to biodiversity resulting from a development which cannot be avoided, adequately mitigated or compensated for then planning permission should be refused. Paragraph 172 of the NPPF advises that great weight should be given to conserving and enhancing landscape and scenic beauty in.....Areas of Outstanding Natural Beauty (AONB).

Taking the above into account the applicant has submitted an ecological impact assessment which noted that the nearest statutory designated site is the Charwell Wetlands (Bradinch) Local Nature Reserve located approximately 3.5km to the west. This site has not been included in the assessment as it is considered to be outside the zone of influence of the proposed solar farm. The majority of the site is arable fields with grazing semi improved grasslands. In addition many of the fields are delineated by managed hedgerows of limited species.

In terms of fauna a number of bats species have been recorded in the area, with hedgerows providing ideal foraging areas but there are limited suitable sites for roosting bats. The area is generally used for bat commuting. Evidence of badger setts were found on the site and the fences for the solar farm will be badger friendly to allow for the free movement of badgers. No records of Great Crested Newts were found and there were limited findings of reptiles due to the managed nature of the land. The survey found a number of different bird species using the hedgerows, which were also found to be home to dormice. The report also included a number of mitigation measures and concerns were raised by the Council's independent ecologist about the report and the mitigation measures.

The applicant subsequently submitted a breeding bird survey which identified a number of notable species to be found on the development site. These included stock dove, dunnock\*, willow warbler, reed bunting\*, mallard, skylark\*, song thrush\* and house sparrow. Those birds with an asterisk are identified as rare and threatened species. It should be noted that all wild birds, nesting sites and eggs are protected under the Wildlife and Countryside Act 1981. The report identified that after the construction of the solar farm, the whole site area will provide a relatively undisturbed habitat for the at risk species, particularly the skylark. The report also recommended that the no construction work should take place in the bird breeding season (March to August) and this is reiterated in the informative to the proposed decision notice.

The applicant has also submitted a revised biodiversity management plan and one of the positive steps of this plan is to appoint an Ecological Clerk of Works to advise on and supervise ecological mitigation and enhancement works during construction and operation as required and a licensed dormouse ecologist will be present to supervise hedgerow removal works where undertaken. Initially site visits will be undertaken on a monthly basis during the last week of each month that the site is under construction.

This submitted plan as well describing the mitigation measures similar to the previous document, also provides ecological enhancement measures. The design and long-term management of the land seeks to maintain and improve functionality through protecting and enhancing potentially important wildlife corridors i.e. through creation and maintenance of native species hedgerows within and around the site. New hedgerow planting proposed as part of the development as shown on the *Site Layout and Planting Proposals Plan* includes approximately 600m of new mixed native species hedgerow creation and strengthening infill of existing gappy sections of hedgerow. This will provide well-structured hedgerows of value for wildlife around the Site. Protection of hedgerows and mature trees on Site or along access routes and adjacent land will safeguard potential roost sites and maintain foraging and commuting opportunities for bats.

Other enhancement measures include the planting of a native species woodland copse area on the eastern boundary, which will provide an effective boundary to the adjoining residential. As the panels are raised from the ground a diverse grassland habitat can be created, using a variety of native species, which will change the site to meadow grassland. This allows for sheep grazing between and under the solar panels.

Examples of fauna enhancement include 10 bird boxes and 10 bat boxes to be installed in tree locations around the site. In addition 10 dormice boxes will be placed in hedgerows. The security fencing will be lifted in various locations to allow the badgers movement in and around the site.

The development of the biodiversity interest of the site will be monitored over time by a suitably experienced ecologist. A walkover monitoring survey will be undertaken in years 2, 3, 4, 5, 10 and 15 after construction. This will involve an inspection of the hedgerows, trees, grassland and any other ecological features to ensure that they are being managed in a manner suitable for the enhancement of wildlife interest. Bird and bat boxes will also be checked. The results of these monitoring surveys will be used to inform future changes in

management and the need or otherwise to replace missing bat/bird boxes. The management plan will be amended if necessary based on the monitoring recommendations.

It is considered that the revised biodiversity management plan addresses many of the concerns about the habitat and the biodiversity of the site. Overall it is concluded that the proposal would not result in unacceptable harm to protected species or biodiversity in general subject to the use of mitigation and enhancement measures. In addition this development will not harm the character or the appearance of the Blackdown Hills AONB. The proposal is considered to be acceptable and in accordance with Policies S9 and DM2 of the Local Plan.

## 7) Loss of Agricultural Land

Policy S1 of the Local Plan states that proposals for renewable energy and low carbon development must consider the quality and productivity of the best and most versatile agricultural land. Policy S9 refers to preserving and productivity of the best and most versatile agricultural land where possible. Policy DM2 which relates directly to renewable energy, states that proposals must demonstrate that impacts are or can be made acceptable in relation to quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a).

Paragraph 170 of the NPPF states that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by...b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land..."

The stance taken by the NPPG is to encourage the effective use of land by focusing large scale solar farms on previously developed land and non-agricultural land Paragraph 13 of the NPPG goes on to state 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.

The NPPF defines the best and most versatile agricultural land as being land in Grades 1, 2 and 3a of the Agricultural Land Classification and the implication is that development should use the poorer quality land paragraph. The application is supported by an Agricultural Land Classification report (ALC) undertaken by qualified expert, who confirms that the proposal would utilise 17 fields making up 61ha, with 15 fields of Grade 3b, 1 fields of Grade 4 and 1 field of Grade 5. This means that the site comprises of, at best moderate quality agricultural land, to poor quality and very poor quality agricultural land; therefore the proposal does not result in the loss of good quality agricultural land, and there would be no objection to the use of this land with Grades 3b, 4 and 5 of Agricultural classification.

As the site area for the proposal will cover 61ha, it can only be described as substantial. The solar farm would be in situ for a 40 year period and would not result in the long term loss of agricultural land, and the resource of the land would be available for the next generations. The solar panels are to be secured to the ground with steel piles with limited soil disturbance, which means that the panels can be removed in the future with no permanent loss of agricultural land quality. It should be noted that the construction of the substation and other buildings may permanently impact the agricultural land, but this would be for relatively small areas within the whole development area. The proposal also includes the planting of

grassland around the solar panels for grazing of animals and this would allow for a continual agricultural use during the anticipated 40 year operation of the solar farm.

Overall it is concluded that it would be difficult to justify a refusal of the proposal on the grounds of the impact upon the agricultural land; and that the proposal complies with policies S1, S9 and DM2 of the Local Plan and national policy in respect of agricultural land.

#### 8) Archaeology

Following the receipt of further information, the County Historic Environment Team has raised no objections to the proposal subject to the use of a condition to secure a written scheme of investigation, setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works. Subject to the use of this condition, it is not anticipated that the proposal would result in any harm to archaeological heritage assets, and that the proposal would be in accordance with Policy DM25 of the Local Plan and the guidance contained in the NPPF.

#### 9) Length of temporary consent

The solar farm would be a temporary use of the land as the equipment would be removed and returned to its former condition when the development is decommissioned following 40 years from the date of the first export of electricity to the electricity grid. In the past, 25 year permissions have been sought for solar farm developments. As far as I am aware there is no government time limits imposed on the lifetime of a solar farm. Previously 25 year permissions were imposed as this was the warranty period offered by manufacturers and was used for modelling the viability of solar projects by developers.

The understanding now is that solar farms are now more efficient for a longer period, which has resulted in extended warranty periods, and improved the business models for companies maintaining the solar farm. Whilst this is not necessarily a material consideration, the economic and environmental benefits of increasing the length of operation of the solar farm are improving which means that the community would have the benefit of renewable energy production for a longer period.

It is suggested that any approval of this application should be subject to a condition which requires the permission to be implemented within 3 years, the timeframe for the construction of the solar farm and its commissioning, and a temporary period for the operation of the solar farm. It is also suggested that a condition is needed to ensure the restoration of the landscape takes place when the solar farm is decommissioned and the equipment removed.

#### **Planning Balance and Conclusion**

There is an in-principle support for renewable energy schemes in Policy DM2 of the Local Plan and the NPPF provides that the benefits of proposals in terms of renewable energy can be material considerations. The 49.9MWp (Mega Watt peak) would provide electricity equivalent to the average electrical needs of 10,077 homes in the Mid Devon area. This would be a large scheme that would provide a valuable contribution to cutting greenhouse gas emissions and this is a material consideration which warrants considerable weight. The proposal would support the Government's targets in terms of renewable energy provision to meet international commitments. Furthermore it would allow Mid Devon to address the Climate Emergency in conjunction with Devon County Council.

Also there would be ecological enhancement of the application site with species diverse meadows and additional and improved habitats such as new hedgerows and belts of rough

grassland. This would accord with national guidance that biodiversity improvements are to be encouraged around arrays.

The proposal would support economic growth in this part of Mid Devon area by providing an additional source of income and so increasing the financial security of farming enterprises. Thus it would represent farm diversification which is supported by the NPPF. The agricultural function of the land would also continue by means of sheep grazing and the site would be used effectively for agriculture as well as for electricity production. There would be a financial investment in the local economy with employment opportunities.

The application has been found to be acceptable with regards to impact on trees/hedgerow, residential amenity, heritage, archaeology, highways and not resulting in any increased flood risk.

Overall, the proposed solar farm would result in a substantial benefit in terms of energy production and I am satisfied that no significant adverse impacts have been identified which would outweigh this benefit. The proposed development is acceptable and would represent sustainable development in accordance with Mid Devon Local Plan 2013 – 2033 and the national guidance.

## **RECOMMENDATION**

The proposal is considered to be acceptable, having regard to the Development Plan and all other material considerations, subject to the use of the conditions outlined below.

## **REASON FOR DECISION**

As a renewable energy facility, the proposal's location within the countryside is acceptable in principle according to Policy DM2 of the Mid Devon Local Plan. The limited visual harm that the proposal would give rise to would be outweighed by the environmental benefits of allowing it. It is considered that the proposal would not result in unacceptable harm in terms of local and residential amenity; highway safety; surface water drainage arrangements; flooding risk; ecology or in relation to the availability of agricultural land.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The permission hereby granted shall be limited to a period of 40 years from the date when electricity is first exported from the solar panels to the electricity network (The First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority within 14 days of the event occurring
3. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice
4. Within 3 months of the solar array ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition in accordance with details to be submitted to, and approved in writing by, the local plan authority prior to these works being carried out.
5. The Solar PV Panels hereby permitted shall not be erected until samples of the materials to be used in the construction of the solar panel array have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples and retained as such thereafter.
6. The site access roads shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway

7. Visibility splays shall be provided, laid out and maintained for that purpose at the Primary site access where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in a southern direction and as identified on the access plan in the other direction.
8. Visibility splays shall be provided, laid out and maintained for that purpose at the other site accesses in accordance where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33.00 metres in on coming direction and 33.00 metres to the centre line in the offside direction.
9. No other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times
10. No development shall take place on site until the off-site highway condition surveys have been undertaken and approved in writing by the Highway Authority.
11. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
12. No development shall take place until a detailed scheme of ecological mitigation and enhancement measures, in accordance with the recommendations of the submitted Biodiversity Management Plan by avian ecology v4 (Dated 20/07/2020), has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include proposals for protective measures during the construction process; external lighting; and planting, including a timetable for implementation. The development shall thereafter be undertaken in accordance with the approved details.
13. The Solar PV Panels hereby permitted shall not be erected until details, on a suitably scaled plan, of the soft landscape works have been submitted to, and approved in writing by, the local planning authority. The details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved details.
14. All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the erection of the panels, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.
15. The Solar PV Panels hereby permitted shall not be erected until the full details of the works to the hedges including species adjacent to the residential properties, as shown on Figures 11 and 12 of the Glint and Glare Study Page Power Ltd v 4 dated 16<sup>th</sup> August 2019, have been submitted and approved in writing by the Local Planning Authority. The works be carried out in the first planting season after the written approval and thereafter retained and maintained.
16. The development hereby approved shall not be brought into use until the surface water drainage arrangements have been provided in full, in accordance with details which shall previously have been submitted to and approved in writing by the Local

- Planning Authority. The approved measures shall thereafter be retained for the life of the development.
17. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment report v5 prepared by Calibro, and issued on 30<sup>th</sup> November 2020. The mitigation measures shall be fully implemented in accordance with the timing/phasing arrangements detailed within the Flood Risk Assessment. The approved measures shall thereafter be retained for the life of the development.
  18. No development including any site clearance or groundworks of any kind shall take place within the site until a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the agreed scheme.
  19. No external form of illumination of the site shall be undertaken other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits.
  20. The installation or construction of all plant, equipment, and buildings shall be undertaken using a colour scheme which has previously been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved colour scheme.
  21. Prior to the commencement of development on each relevant phase a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:
    - (a) the timetable of the works;
    - (b) daily hours of construction;
    - (c) any road closure;
    - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
    - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
    - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
    - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
    - (h) hours during which no construction traffic will be present at the site;
    - (i) the means of enclosure of the site during construction works; and
    - (j) details of wheel washing facilities and road sweeping measures with the respective obligations
    - (k) The proposed route of all construction traffic exceeding 7.5 tonnes.
    - (l) Details of the amount and location of construction worker parking.
    - (m) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

## REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To establish the commencement date for the 40 year operational life of the solar farm.
3. For the avoidance of doubt and in the interests of proper planning.
4. For the avoidance of doubt and to establish the duration of the planning permission and in the interests of the visual appearance of the landscape once the plant is redundant in accordance with policy DM2 of the Mid Devon Local Plan 2013 – 2033.
5. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.
6. To prevent mud and other debris being carried onto the public highway.
7. To provide adequate visibility from and of emerging vehicles.
8. To provide adequate visibility from and of emerging vehicles.
9. To ensure that adequate facilities are available for traffic attracted to the site.
10. To minimise the impact of the development on the highway network in accordance with the NPPF.
11. To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.
12. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033
13. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033
14. In the interests of the visual amenity of the area and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.
15. To protect the amenities of the adjoining residential properties and in accordance with policy DM2 of the Mid Devon Local Plan 2013 - 2033.
16. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.
17. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.
18. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained

for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.

19. To minimise light pollution in this rural area and in the interests of biodiversity and ecology, in accordance with policies S9 and DM2 of the Mid Devon Local Plan 2013 – 2033.
20. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan. 2013 - 2033
21. To minimise the impact upon the highway network and the neighbouring residential properties during the construction period.

## **INFORMATIVES**

### Protected Species

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

**Contact for more Information:** Eileen Paterson Development Management Manager,  
epaterson@middevon.gov.uk

**Circulation of the Report:** None

**List of Background Papers:** All documents submitted in relation to application 19/01679/MFULL and development plan documents

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**UPDATES**

<b>AGENDA REPORTS</b>	
1.	<p>19/01679/MFUL - Construction of ground-mounted solar PV panels to generate up to 49.9MW (Site Area 60.78ha) and battery storage facility together with all associated works, equipment and necessary infrastructure - Land at NGR 303437 103555 East of Langford Mill &amp; Tye Farm Langford.</p> <p><b>14<sup>th</sup> July 21</b> <b>UPDATE SHEET LIST OF CONDITIONS FOR LANGFORD SOLAR FARM</b></p> <p><b>Subject to the following conditions:</b></p> <ol style="list-style-type: none"><li>1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</li><li>2. The permission hereby granted shall be limited to a period of 40 years from the date when electricity is first exported from the solar panels to the electricity network (The First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority within 14 days of the event occurring.</li><li>3. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.</li><li>4. Within 3 months of the solar array permanently ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition in accordance with details to be submitted to, and approved in writing by, the local plan authority prior to these works being carried out</li><li>5. The Solar PV Panels hereby permitted shall not be erected until samples of the materials to be used in the construction of the solar panel array have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples and retained as such thereafter</li><li>6. The site access roads shall be in a sound bound material for the first 20.00m back from its junction with the public highway and drained to prevent no surface water onto the public highway. The site access roads shall be hardened, surfaced, drained and maintained thereafter hardened, surfaced, drained and maintained thereafter.</li></ol>

	<p>7. Visibility splays shall be provided, laid out and maintained for that purpose at the primary site access where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in a southern direction and as identified on the access plan in the other direction.</p> <p>8. Visibility splays shall be provided, laid out and maintained for that purpose at the other site accesses in accordance where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33.00 metres in on coming direction and 33.00 metres to the centre line in the offside direction.</p> <p>9. No other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.</p> <p>10. No development shall take place until off site highway condition surveys have been undertaken and the details submitted and approved in writing by the Local Planning Authority in liaison with the Local Highway Authority.</p> <p>11. No development shall take place until:</p> <p>EITHER</p> <p>i) A programme of archaeological work has bene carried out in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority.</p> <p>OR</p> <p>ii) A construction methodology for the development that avoids any below-ground impact within the area of Archaeological sensitivity in the vicinity of the 7th/8<sup>th</sup> century iron furnace has bene submitted to and approved in writing by the Local Planning Authority.</p> <p>12. No development shall take place until a detailed scheme of ecological</p>
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mitigation and enhancement measures, in accordance with the recommendations of the submitted documentation:

(a) The Biodiversity Management Plan by avian ecology v4 (Dated 20/07/2020), has been submitted to and approved in writing by the Local Planning Authority.

(b) The Biodiversity Enhancement Note and Addendum Note Dated 3/12/2020)

(c) The updated Site Layout Plan

Notwithstanding the details included in the above documentations, the details shall include the details to be submitted including planting plans, specification of species, sizes, planting centres, number and percentage mix and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved plans and details.

13. The Solar PV Panels hereby permitted shall not be erected until details, on a suitably scaled plan, of the soft landscape works have been submitted to, and approved in writing by, the local planning authority. The details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved details.
14. All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the erection of the panels, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.
15. The Solar PV Panels hereby permitted shall not be erected until the full details of the works to the hedges including species adjacent to the residential properties, as shown on Figures 11 and 12 of the Glint and Glare Study Page Power Ltd v 4 dated 16th August 2019, have been submitted and approved in writing by the Local Planning Authority. The works be carried out in the first planting season after the written approval and thereafter retained and maintained.
16. The development hereby approved shall not be brought into use until the surface water drainage arrangements have been provided in full, in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall thereafter be retained for the life of the development.
17. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) report v5 prepared by Calibro, and issued on 30th November 2020, including the level for floodplain compensation outlined in paragraph 7.6.6 of the FRA. The mitigation

	<p>measures shall be fully implemented in accordance with the timing/phasing arrangements detailed within the Flood Risk Assessment. The approved measures shall thereafter be retained for the life of the development.</p> <p>18. No development including any site clearance or groundworks of any kind shall take place within the site until a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the agreed scheme.</p> <p>19. No external form of illumination of the site shall be undertaken other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits.</p> <p>20. The installation or construction of all plant, equipment, and buildings shall be undertaken using a colour scheme which has previously been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved colour scheme.</p> <p>21. Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:</p> <ul style="list-style-type: none"> <li>(a) the timetable of the works;</li> <li>(b) daily hours of construction;</li> <li>(c) any road closure;</li> <li>(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;</li> <li>(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;</li> <li>(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;</li> <li>(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading</li> </ul>
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	<p>purposes, unless prior written agreement has been given by the Local Planning Authority;</p> <p>(h) hours during which no construction traffic will be present at the site;</p> <p>(i) the means of enclosure of the site during construction works; and</p> <p>(j) details of wheel washing facilities and road sweeping measures with the respective obligations</p> <p>(k) The proposed route of all construction traffic exceeding 7.5 tonnes.</p> <p>(l) Details of the amount and location of construction worker parking.</p> <p>(m) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;</p> <p>22. No development shall take place until a Landscape and Ecological Management Plan (LEMP) is submitted and approved in writing by the Local Planning Authority. This plan shall provide details of the following:</p> <p>a) Retained Ecological and Landscape features</p> <p>b) Proposed habitats Ecological and Landscape Features</p> <p>c) Habitats and Landscape Management Measures</p> <p>d) Monitoring and Review of Plan</p> <p>The development shall not be carried out other than in complete accordance with the approved details</p> <p><b>REASONS FOR CONDITIONS:</b></p> <p>1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.</p> <p>2. To establish the commencement date for the 40 year operational life of the solar farm.</p> <p>3. For the avoidance of doubt and in the interests of proper planning.</p> <p>4. For the avoidance of doubt and to establish the duration of the planning permission and in the interests of the visual appearance of the landscape once the plant is redundant in accordance with policy DM2 of the Mid Devon Local Plan 2013 - 2033.</p> <p>5. In the interests of local character, and in accordance with policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033.</p>
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	<p>6. To prevent mud and other debris being carried onto the public highway.</p> <p>7. To provide adequate visibility from and of emerging vehicles.</p> <p>8. To provide adequate visibility from and of emerging vehicles.</p> <p>9. To ensure that adequate facilities are available for traffic attracted to the site.</p> <p>10. To minimise the impact of the development on the highway network in accordance with the National Planning Policy Framework.</p> <p>11. To ensure, in accordance with EITHER ( i ) policy DM25 of the Mid Devon Local Plan 2013-2033 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development or (ii) in accordance with policy DM27, the preservation in situ of heritage assets.</p> <p>12. In the interests of local character, and in accordance with policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033.</p> <p>13. In the interests of local character, and in accordance with policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033.</p> <p>14. In the interests of the visual amenity of the area and in accordance with policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033.</p> <p>15. To protect the amenities of the adjoining residential properties and in accordance with policy DM2 of the Mid Devon Local Plan 2013 - 2033.</p> <p>16. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.</p> <p>17. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.</p> <p>18. To prevent the increased risk of flooding by ensuring the satisfactory means</p>
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of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.

19. To minimise light pollution in this rural area and in the interests of biodiversity and ecology, in accordance with policies S9 and DM2 of the Mid Devon Local Plan 2013 - 2033.
20. In the interests of local character, and in accordance with policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033.
21. To minimise the impact upon the highway network and the neighbouring residential properties during the construction period
22. In the interests of the visual amenity of the area in accordance with policies DM2 and S9 of the Mid Devon Local Plan 2013-2033..

1. Protected Species

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

**REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT**

As a renewable energy facility, the proposal's location within the countryside is acceptable in principle according to policy DM2 of the Mid Devon Local Plan 2013-2033. The limited visual harm that the proposal would give rise to would be outweighed by the environmental benefits of allowing it. It is considered that the proposal would not result in unacceptable harm in terms of local and residential amenity; highway safety; surface water drainage arrangements; flooding risk; ecology or in relation to the availability of agricultural land.

Withdrawn objection

I am writing to you ahead of the planning committee tomorrow in relation to the proposed Langford Solar Farm (19/01679/MFUL). I felt it is worth noting to

members that whilst I originally objected to the scheme due to concerns over potential impacts on my business, I have since worked closely with the Applicant JBM Solar and they have agreed to implement a number of mitigation measures including compensation in order to minimise disruption to my business. As a result I no longer have any objection to the scheme and consider that all of my concerns have been addressed.

Kind regards,  
John Pitson,  
Yarak birds of prey