

# Public Document Pack

**Committee Administrator**

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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/95561148553?pwd=Ti9Yc2ovbzFOOHFnUDFxSWpHcWppdz09>

Meeting ID: 955 6114 8553

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## **MID DEVON DISTRICT COUNCIL**

### **PLANNING COMMITTEE**

**A SPECIAL MEETING** of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 22 September 2021 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 6 October 2021 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

### **STEPHEN WALFORD**

Chief Executive

14 September 2021

**Councillors:** Mrs F J Colthorpe, 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      **ELECTION OF CHAIRMAN**  
To elect a Chairman for the remainder of the municipal year 2021-2022
- 2      **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of substitute.
- 3      **PROTOCOL FOR HYBRID MEETINGS** *(Pages 5 - 12)*  
To note the protocol for remote meetings.
- 4      **MINUTES OF THE PREVIOUS MEETING** *(Pages 13 - 32)*  
Members to consider whether to approve the minutes as a correct record of the meeting held on 8 September 2021.
- 5      **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.
- 6      **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.
- 7      **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
- 8      **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing on the Plans List which have been deferred.
- 9      **PLANS LIST** *(Pages 33 - 48)*  
To consider the items in the Plans List.
- 10     **APPLICATION 19/01679/FULL - CONSTRUCTION OF GROUND MOUNTED SOLAR PV PANEL TO GENERATE UP TO 49.9MW (SITE AREA 60.78HA) AND BATTERY STORAGE FACILITY TOGETHER WITH ALL ASSOCIATED WORKS, EQUIPMENT AND NECESSARY INFRASTRUCTURE - EAST OF LANGFORD MILL AND TYE FARM, LANGFORD** *(Pages 49 - 146)*  
To consider an implications report of the Consultant – Development Management, with regard to this application.

### 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. 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: [Hybrid Protocol - September 2021.pdf \(middevon.gov.uk\)](#)

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

Public Wi-Fi is available in all meeting rooms.

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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 until further notice. 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 fully 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 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)

Day of meeting	Notice given by
Monday	Previous Wednesday
Tuesday	Previous Thursday
Wednesday	Previous Friday
Thursday	Monday
Friday	Tuesday

This will ensure that the meeting rooms do not become overcrowded.

(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.

- (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) Use the hand sanitiser which is available in the building.
- (d) 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.
- (e) Sign into the meeting if requested to do so – you may be asked to leave contact details
- (f) Enter and leave the building promptly – do not gather inside after the meeting has finished, or during any break in the meeting
- (g) Bring your own water/refreshments, as these will not be available for the time being.

## **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.

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 8 September 2021 at 2.15 pm

### **Present**

#### **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

### **Also Present**

#### **Councillor(s)**

Mrs E J Lloyd, R F Radford and  
Mrs M E Squires

### **Present**

#### **Officers:**

Maria De Leburne (Operations Manager  
Legal and Monitoring), Nick Hill (Interim  
Planning Solicitor), Dean Emery (Corporate  
Manager for Revenues, Benefits and  
Recovery), Myles Joyce (Consultant  
Development Management Manager),  
Angharad Williams (Interim Development  
Management Manager), Adrian Devereaux  
(Area Team Leader), Helen Govier  
(Principal Planning Officer), Tina Maryan  
(Area Planning Officer), Sally Gabriel  
(Member Services Manager) and Carole  
Oliphant (Member Services Officer)

## 79 **APOLOGIES AND SUBSTITUTE MEMBERS (0.03.33)**

There were no apologies or substitute Members.

## 80 **HYBRID MEETING PROTOCOL (0.03.40)**

The Committee had before it, and **NOTED**, the \*Hybrid Meeting Protocol.

Note: \*Protocol previously circulated and attached to the minutes

## 81 **PUBLIC QUESTION TIME**

**Mr Mills** referring to Item 4 (Pleasant Streams) on the Plans List stated: My question concerns the many heavy vehicles that are kept on the site as part of the applicants' paving business.

Why is this aspect of the development not mentioned in the application or officer report? Should it not be, seeing that the Mid Devon Development Plan's Policy DM 18 on rural employment development states:

“It is important that the various indirect consequences of employment development such as security fencing, lighting, advertising material, open storage and vehicle parking and manoeuvring provisions do not harm the visual environment.”

Should a similar condition on the nature of the site be imposed in the current application?

**Mrs Mills** again referring to Item 4 (Pleasant Streams) on the Plans List stated that this application for 6 pitches is apparently based on the applicant's needs and circumstances although as you know the applicants owned land with permanent permission until 6 months ago was in County Durham. However Condition 12 makes it clear that the applicants could sell the whole site or part of it to anyone leading a nomadic life style. Consequently if this application is approved, the applicant stands to gain several hundreds of thousands of pounds through increased land value, this would clearly make a mockery of the needs argument. So the question I would like to officer to respond to is – why has the use of a personal condition for the 6 family units in question for which the needs argument is used not been seriously considered within the officer report? This is particularly confusing seeing that:

1. The previous owner of the site owner never managed to get rid of her personal permission on appeal; and
2. The last traveler site approved by MDDC in July 2021 was approved on a personal condition, so we know that this is a practice still used by MDDC.

**Frances Wilcox** again referring to item 4 on the Plans List stated that she was very concerned about this application for several reasons: are members satisfied that this is a suitable location when under policy you want to encourage walking and cycling? Pleasant Streams are proposing to put another entrance on this very busy Uffculme Road (B3340) with a national speed limit, this road has no street lighting or footpath. The Highways Authority do not see this as a concern just because there are no statistics to prove it. Anyone will be taking a chance to walk this road in day light, let alone in the dark. I was in attendance not so long ago further up the road outside Langlands Business Park, where a member of the public got off a bus, crossed the road to the footpath on the other side and in the process got run over. It was dark and the van driver had not seen the pedestrian. Emergency services were called several times before attending and the man was eventually air lifted to get treatment, he did survive, but this could have been worse. Pleasant Streams does not have a safe and convenient access to local facilities and the bus service is also very limited. Can you advise how they will cater for a space for children to play, is there even enough private space for an individual home or parking spaces? Especially considering the lorries and containers already there. How can this be achieved? After all this, is the officer satisfied that any condition will be adhered to? There was no compliance with any previous conditions and there is very little point in putting in conditions on applications if officers are unable or unwilling to enforce them. This application does not comply with national policy or your own Local Plan, so what assurance can you give to the public that any conditions will be adhered to?

**Mr Bratby** referring to the Minutes of 14 July 2021 stated: this is a very serious issue as there has been an attack on democracy, somebody has deliberately inserted the 2 words 'high grade' into the 3<sup>rd</sup> reason for refusal, proposed by a duly elected councillor and agreed by the majority of the committee. These 2 words have completely changed the reason for refusal, the 2 words did not get in there by accident, so has a thorough investigation been undertaken, has the person

responsible been disciplined and if not why not? And finally have measures been put in place to prevent this sort of corruption of the planning system from happening again.

**Mr Wilson** (speaking on behalf of his wife) and referring to Item 2 (Heronfield House) asked: Is it usual for a planning officer to disregard the recommendations of the Public Health Officer?

The Chairman read out a set of questions from Mr Hiscock referring to Item 1 (Stoneyford) on the Plans List:

1. Why is an industrial estate being built directly within a residential area as it will bring noise, smell, signage, vehicle and light pollution plus crime to the community?
2. The industrial estate will definitely cause a large increase in the volume of heavy goods vehicles passing through our community. How can you let this happen?
3. The new estates entrance is unsuitable and unsafe. It is being built at the top of a blind hill from of Cullompton. The junction breaks the DCC precedent of having right turn safety lane to commercial premises in Stoneyford. Long heavy goods vehicles turning right out of the new estate will block the entire width of the Honiton Road. Vehicles turning right into the estate will block the entire left hand lane encouraging motorists to undertake using the kerbside private land.
4. The Honiton Road public footpath - Once anyone steps off of the narrow path and damages private land the residents will bear the cost. The path is also out of sight of the industrial estate. We do not want commercial signage pollution in a residential area to overcome this problem.
5. The new road junction will encourage pedestrian customers to use the private service road opposite and if that road was restricted no doubt they will walk along the unprotected A373.
6. Kingsmill Industrial estate is nowhere near fully developed.
7. The large undeveloped 'Cullompton Business Park' should be used first.
8. The Kingsmill Road should be used as further development rather than encroaching into a residential area.
9. Junction 28 M5 is at full capacity and further industrial development will worsen the traffic volume especially as the Cullompton relief road and the new M5 junction are in jeopardy.
10. There is a ransom strip of land and a covenant indirectly linked to this application regarding the new road system and the document shows that if this application is approved the ransom strip and covenant may be lifted to assist the Garden Village's development this must be brought out into the open and discussed.

The Chairman indicated that answers to questions would be provided when the items were discussed.

## **82 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

Members were reminded of the need to declare interests as appropriate.

### 83 MINUTES OF THE PREVIOUS MEETING (0.16.39)

The minutes of the meeting held on 18<sup>th</sup> August 2021 were agreed as a true record and **SIGNED** by the Chairman.

The minutes of the meeting held on 14<sup>th</sup> July 2021 were agreed as a true record subject to the wording 'high grade' being removed from minute number 49 and were **RE-SIGNED** by the Chairman.

In response to a public question the interim Monitoring Officer confirmed that an internal investigation was being conducted.

### 84 CHAIRMAN'S ANNOUNCEMENTS (0.20.49)

The Chairman announced that she was standing down as Chairman of the committee after 10 years and she thanked Members and officers that she had worked with over that time.

She introduced Angharad Williams as the new Interim Development Management Manager.

### 85 DEFERRALS FROM THE PLANS LIST (0.23.52)

There were no deferrals from the Plans List.

### 86 THE PLANS LIST (0.23.55)

The Committee considered the applications in the \*Plans List.

Note: \*List previously circulated and attached to the minutes.

***a) 20/01409/MOUT - Outline hybrid application for the erection of industrial units within use Classes E(g), B2 and B8 on 8.74 hectares of land to include green infrastructure and Full permission for the erection of 4 industrial units (Plots 5, 9 and 10) (4327sqm) Classes E(g), B2 and B8 and creation of new vehicular access, parking, detention basin and landscaping at Land at NGR 303082 107667, Stoneyford, Devon.***

The Area Planning Officer explained that it was a hybrid application on an allocated site under policy CU17.

She outlined the application by way of a presentation which highlighted the site location plan, plot allocations, plot 5 elevations, plots 9 & 10 site layout, plot 10 elevations, aerial view and photographs of the site and from the proposed access.

In response to public questions she confirmed:

- The Garden Village was not just for residential dwellings but also provided for employment
- The site allocated for employment in the Local Plan and the proposal had been considered by the Public Health officer in respect of pollution



- The Highways Authority had no objections to the access or predicted traffic generation along Honiton Road
- The walking route would join with an existing public right of way and the travel plan provided for employees to be provided with details of the walking route
- There was no policy requirement for other industrial sites to be built out first
- If the site became viable in the future it could become liable for a contribution towards the Cullompton relief road through a reviews mechanism in the section 106 agreement to help mitigate traffic congestion at Junction 28
- There were issues outside of the planning application process that were not within control of MDDC or the applicant that were preventing the link with Kingsmill Estate from being provided as this of this application

In response to Member questions she confirmed:

- Tree planting had been considered and a landscaping plan had been submitted that provided for tree screening and biodiversity enhancements
- There was no provision for ground or air source heat pumps, but solar panels would be provided
- The application had been scrutinised by the Environment Agency in relation to flood risk and a sustainable drainage system would be installed include pollution control measures

The DCC Highways Officer confirmed that the development did not qualify for a right hand turn lane and that a 30mph road required 43 metre visibility splay and this development provided 70 metres. If a new road was provided through the site at a later date or if there was further development there may be an opportunity to add in a right hand turn lane if the development qualified for one.

Consideration was given to:

- Some Members views that the access was dangerous
- The views of the agent who explained that the development was within the Local Plan and that the area needed a balanced and prosperous district which would provide growth in the District.

It was therefore **RESOLVED** that planning permission be granted subject to conditions and the signing of a S106 agreement to secure:

1. A 20 metre strip of land to the southern side of the development to be safeguarded for potential future highways improvements
2. Provision of new footpath and upgrading of existing public right of way
3. Travel plan
4. Provision, management and maintenance of green infrastructure/public open space
5. A review clause to reassess viability of the scheme with regard to a contribution towards the Cullompton Relief Road at a trigger point of the occupation of 4,250 square metres on the use of X amount of floor space, based on actual achieved costs and transacted sales values being secured to determine how much contribution needs to be paid through s106 on the remaining plots.

(Proposed by the Chairman)

**Reason for the decision:** As set out in the report

Notes:

- i. Cllrs Mrs F J Colthorpe, 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 Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- ii. Cllr B G J Warren declared a personal interest as he was known to an objector
- iii. Cllr R J Dolley declared a personal interest as he knew people in Cullompton
- iv. Glenn Crocker spoke as the Agent
- v. Cllr E J Berry requested that his vote against the decision be recorded
- vi. The following late information was received:

Reason 15 – the policy referred to should be Policy DM25

Point 5 of the S106 part of the recommendation, the reference to TCRR should read “Town Centre Relief Road”.

Page 74, fourth paragraph:

Concern has been raised that the development will encroach on land identified as green infrastructure in the Local Plan. Following discussions with the applicant, the area originally shown as GI has been increased and now the area of GI to be provided is in excess of the 2 hectares required by policy CU17.

Should read: “... and now the area of GI to be provided...”

Page 83. There are two informatives numbered 3. The last one headed “Public Rights of Way” should be numbered 4.

***b) 21/00453/FULL - Change of use of agricultural land for siting of two off grid mobile cabins for holiday use at Land at NGR 292586 107415, Heronsfield House, Cadeleigh.***

The Acting Area Team Leader outlined the application by way of a presentation which highlighted the site location plan, block plan, the black cabin, the tin cabin and photographs of the site and parking provision.

The officer explained that the site was along a private track which was not in the ownership of the applicant but a dispute over land access was not a material planning consideration.

In response to public questions the officer explained that officers had given full consideration to the views of the Public Health Officer but on balance felt that it was not a limited reason for refusal.

In response to Member questions he confirmed that:

- The cabins would be classed as caravans but a condition restricted the site to 2 units in a particular location
- The cabins were very low impact which were well screened and would not have a negative impact
- Consideration was given to the business case and it was felt the application would have a positive impact on the local character
- The materials used for the cabins was in keeping with the rural buildings already located in the area
- The cabins were low key structures but appearance could be subjective
- There were no proposed times for operations and the management plan explained how holiday makers would be managed

Consideration was given to:

- The views of the objector who stated that access to the site was across his property and requested a condition that access arrangements were confirmed prior to any occupation, that the applicants had an agricultural tie to their property, that sound travelled across the valley and that external lighting had been added
- The applicant who stated that the pre application advice had been supportive and they had worked to ensure that the application complied with local policies. There was a gap in the market for off grid sustainable accommodation and the location had been carefully considered
- The views of the Ward Member who highlighted concerns with visual impact, access and traffic in the locality
- The advice from the Planning Solicitor who confirmed that the dispute between the neighbour and the applicant over access was not a material consideration
- The views of Members that the development would cause no harm and that people would like to spend the night there

It was therefore **RESOLVED** that planning permission be granted subject to conditions to include a reworded Condition 5 which read: No more than two units of holiday accommodation shall be provided on the application site at any one time, and those units shall be provided in strict accordance with the details submitted within the approved plans. The said holiday units shall not be replaced without the Local Planning Authority first granting planning permission.

(Proposed by Cllr P J Heal and seconded by Cllr G Barnell)

**Reason for the decision:** as set out in the report

Notes:

- i. Cllrs Mrs F J Colthorpe, 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 Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- ii. James Wilson spoke as the objector
- iii. Harriet Harper spoke as the application

- iv. Cllr R M Deed provided a statement as Ward Member which was read out by the Chairman
- v. The following late information was received

Further comments have been received from the applicant, correcting a couple of inaccuracies in the committee report, and providing further information, as follows:

- There was a total of 5 representations from the public, not 6, of which 4 were objections & 1 was in support.
- As detailed in our supporting statement dated 7th May 2021, since only one of the cabins is suitable for accommodating a baby & our target market is the over 35s without children (this being the growth market for our type of accommodation) we have decided to market ourselves as a child free site.
- I can confirm that it is our intention to create a safe & secure compost area on our land behind the agricultural barn, which is clearly identified on the site plans. This area is well away from the route that clients will take to access the cabins, it is also well away from the river. Furthermore, given its immediate proximity to the barn, it can be securely fenced without impacting on any visual amenity. However, it should also be noted that a considerable number of trees have been planted in that area, including a number of faster growing Birch & Willow, which will in any event screen whatever view there may be within the next few years.
- The applicant advises that they have sought legal advice in respect to rights of access over the private track and understand that they have the necessary rights to implement the planning permission, should it be granted.

A letter has been also received from the owners of the private track that accesses the application site, and who are also occupiers of East Court Farm, the nearest residential property to the west of Heronsfield House, and to the north of the application site. They also wish to make comment in relation to the committee report, as follows:

- Firstly, it is advised that their property is called East Court Farm, not East Court Barton, as referred to in the report.
- The report suggests that the private track may not be in their ownership and refers to a third party who has suggested that the track is a public highway.
- It is not felt that the application has submitted the Article 13 Notice in the correct way, as they have not asked the landowner's permission to implement the proposal, if granted.
- It is requested that if approved, a condition is imposed requiring the applicant to demonstrate that they have right of access, prior to implementing the consent.
- The contributor also advises that they have sought professional legal advice in respect to rights of access over the private track and believe that it is a new enterprise that would require landowner consent for access.

- The officer's summary of the proposal against the relevant policies of the Mid Devon Local Plan is entirely subjective and differs from the views of local residents on a number of policies.
- There are remaining concerns about how waste will be dealt with and the officer recommendation going against the Environmental Health Officer's recommendation.
- The Economic Development Officer's response contradicts one given in response to another nearby tourism proposal at Home Farm.
- There remain concerns about users of the private track having to manoeuvre to allow passing.
- It is noted that the units are moveable and it is felt that the applicant's would be able to move them to other locations, if approved.

Correspondence from both the applicant, and the above objector has been forwarded to Members of the Planning Committee.

The Acting Area team Leader has further considered the wording of condition 5, and suggested that it be reworded as follows:

5. No more than two units of holiday accommodation shall be provided on the application site at any one time, and those units shall be provided in strict accordance with the details submitted within the approved plans. The said holiday units shall not be replaced without the Local Planning Authority first granting planning permission.

***c) 21/00276/MFUL - Erection of 13 dwellings to include associated landscaping, public open space and infrastructure at Land at NGR 283084 102432 (Fanny's Lane), Sandford, Devon.***

The Area Team Leader outlined the contents of the report by way of a presentation which highlighted the site location plan, site layout, street scenes, an artistic rendition, site section, house types and photographs from various aspects of the site.

He confirmed that it was an allocated site within the adopted Local Plan and the development would be in excess of the number of units identified but officers considered the density and felt that the increased number of dwellings on the site would not be detrimental. He confirmed that a full committee site visit had taken place as requested by Members.

There had been no objections from the Highways Authority and the SUDs ground basins had been approved by the Devon County Council Flood and Coastal Risk Management Team.

The Conservation Officer had been concerned with the impact of the bungalow on plot 8 to the nearby grade 2 listed building but planning officers had felt it was acceptable on balance.

In response to Members questions he stated:

- The details of the attenuation basins would be shared with the local Flood Authority and Building Control before they were signed off by the Planning Authority
- The increased height of the bungalow on plot 8 was due to the pitch of the roof
- The Planning Authority were unable to request electric car charging points on the development as it was outside of the 3 main towns and not within current policy
- The Parish Council intended to use any air quality payments towards footpaths and cycle ways and not towards a car charging point in the village
- The scheme was as submitted and there was no current policy which had the requirement that Solar PV must be installed on new builds
- The bungalow on plot 8 would have permitted development rights removed so that it could not be built up in the future
- The previous development was within a Conservation Area and therefore had slate roofs installed but this development was not in that area and the zinc roofs proposed were not against national planning policy

Consideration was given to:

- The views of the agent who said the developers had the ambition to have an executive looking development and that the larger development had secured an extra affordable home. That the comments with regard to the drainage ponds had been noted that that the developer would be happy to provide fencing
- The views of the Parish Council who stated that the main concerns within the village were the drainage ponds and the zinc roofs. That money for air quality would be directed towards footpaths
- The views of the Ward Members who were concerned that no soil was left on site, the lack of car charging points provided, the late submission of a landscape and heritage plan, there were no measures for biodiversity net gain and there was not enough housing mix for young families and older people downsizing
- The views of Members that delivery times could not be adhered to
- The views of Members that additional footpaths should be provided
- Members concerns that electric car charging points should be provided by the developer
- Concerns of Members about the safety of children when the attenuation ponds were full with run off and that nothing had been done to mitigate that
- The legal advice provided by the Planning Solicitor that current MDDC policies did not provide developers with an obligation to provide electric car charging points or sustainable heat sources and therefore it could not be conditioned that they did

It was therefore **RESOLVED** that planning permission be granted subject to conditions with an amendment to condition 6 to state

6. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP) 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 with no deliveries and construction traffic between 8.15am – 9.15am and 3pm – 4pm during school term times; 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;

The CEMP shall also 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. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

and the signing of a S106 agreement and delegated authority be given to the interim Development Management Manager in consultation with the Chairman and Ward Members to renegotiate conditions 2, 4 and 15 to alleviate Members concerns with regard to:

- The roof height of the bungalow on plot 8 which was deemed to be too high
- The installation of and maintenance of fencing around the attenuation basins to mitigate harm to children
- The material proposed for the roofs to be slate and not zinc

(Proposed by Cllr P H Heal and seconded by Cllr S J Clist)

**Reason for the decision:** as set out in the report

Notes:

- i. Cllrs Mrs F J Colthorpe, 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 Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- ii. Daniel Rogers spoke as the agent
- iii. Cllr J Stephens spoke on behalf of Sandford Parish Council
- iv. Cllrs Mrs M E Squires and E Lloyd spoke as Ward Members
- v. The following late information was received:

In order to address concerns raised in respect to construction traffic/deliveries arriving at school times, in order that this can be avoided, condition 6 is proposed to be amended as follows:

6. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP) 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 with no deliveries and construction traffic between 8.15am – 9.15am and 3pm – 4pm during school term times; 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;

The CEMP shall also 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. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

The following corrections to the text within the report should be noted: Pg. 116:

The response from the DCC Flood & Coastal Risk Management Team should be 23rd April 2021.

Pg. 121:

With respect to the Conservation Officers response, within the third paragraph the word 'not' instead of 'to' should have been used so the paragraph reads:

The rest of the Heritage Statement is weak and does not address the required GPA 3 Steps or provide understating of the setting and its significance. The Heritage Statement is a simple exercise in supporting an already conceived layout and the poor siting of Plot 8 with a poor designed bungalow

In the fourth paragraph (6.27) the word 'abut' instead of 'about' should have been used so the paragraph should read:

6.27 The image below is an aerial photograph from 2020 and the dwellings circled red are situated at the western end of the Creedy View development. Immediately to the south is Park House. As will be observed on site, the flank elevations of two story properties were allowed to immediately abut the rear boundary of this grade II listed building. This arrangement has enclosed Park House on its very open northern boundary and, in our view, has had far more impact on the setting of Park House than the proposals which are being considered here.

***d) 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.***

The Principal Planning Officer confirmed that a full committee site visit had taken place and reminded the Committee of the application by way of a presentation highlighting the proposed site layout, aerial images, photographs of the site and the mobile homes on site and the access.

In response to public questions she stated:

- The application was for a residential site and not an employment development
- Each planning application had to be determined on its own merits
- The Government's Planning Practice Guidance stated that personal conditions were rarely appropriate and should only be used in exceptional circumstances
- The Officer assessment considered that the proposal was in accordance with policy DM7 and therefore a personal permissions was not justified
- Officers felt that there were sufficient amenities for occupiers

- If conditions were not adhered to the Planning Authority had the ability to investigate and enforce breaches of planning control

The Planning Solicitor advised Members that they should disregard any reference to unauthorised development on the site and determine the application in front of them and that in accordance with the National Planning Policy Framework there was no need for a personal condition. He also confirmed that the application was for a gypsy/traveller site for 6 units.

The Principal Planning Officer confirmed that a condition restricted the number of units to 6.

Consideration was given to:

- The views of the objector who stated that the development was overbearing and that the applicant had moved in without permission. That she was relying on the Committee to make a decision in accordance with local opinion and that the Planning Authority had done nothing to stop the unauthorised development of the site
- The views of the agent who stated that policy DM7 allowed for gypsy/traveller sites as long as the applicant meet the criteria for gypsy/traveller. That the Mid Devon Local Plan ensured fair treatment of travellers to protect their way of life and where a site was suitable the local authority needed to bring it forward. There was a shortfall of available pitches and no alternative locations for this family
- The views of Willand Parish Council who stated their written submission still stood and that planning legislation should be equal for all. Why did enforcement officers call to the site but no stop notice was issued on the development. The current family were not related to the previous family
- The views of Uffculme Parish Council who stated they objected because it was unauthorised development and you could not ignore the effect that it had on the settled community. There was a negative impact due to the lights and that the Authority should not reward the applicants with an approval. That the site should be returned for agricultural use
- The views of the Ward Member who confirmed that there was a previous personal condition and that the site should have been returned to agricultural use when the previous family left. That the Authority now had a 5 year plan so there would be enough sites in the future and that maybe planning officers could renegotiate for a fewer number of units
- The legal advice of the Planning Solicitor that previous unauthorised development was not a consideration for refusal
- Members views that planning policy was not being adhered to as travellers sites in open countryside should be strictly limited
- Members views that the site did not enhance the area
- The advice given by the interim Development Management Manager that gypsy/traveller sites were treated the same as affordable housing and that there was provision for windfall sites, such as this, to come on line and that the application complied with policy DM7

It was therefore **RESOLVED** that planning permission be granted subject to conditions subject to Condition 8 being amended to: (reference to County Planning Authority replaced by Local Planning Authority):

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 Local Planning Authority.

With an additional condition proposed to secure an appropriate method of surface water drainage;

19. Within 3 months of the date of this decision there shall be submitted to, and approved in writing by, the Local Planning Authority full details of the means of surface water drainage from the site which is to be implemented in accordance with the phasing plan outlined in condition 3 above. The submitted details shall include results of infiltration testing in accordance with BRE Digest 365. For the avoidance of doubt, the approved drainage infrastructure shall be implemented in accordance with the phasing plan required by condition 3 which will set out the timeframe for completion of the approved works.

Reason: To ensure a satisfactory and sustainable surface water drainage system is provided in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033.

(Proposed by the Chairman)

(3 votes for - 3 votes against - Chairman's casting vote)

**Reason for the decision:** as set out in the report

- i. Cllrs Mrs F J Colthorpe, 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 Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- ii. Cllr B G J Warren made a declaration in accordance with Protocol of Good Practice for Councillors dealing with planning matters as he was an adjacent Ward Member and Chairman of Willand Parish Council
- iii. Cllr R J Dolley made a personal declaration as he knew people in the travelling community
- iv. A vote against the officer recommendation was not supported
- v. Cllrs R J Dolley and B G J Warren requested that their votes against the decision be recorded
- vi. Dr Linnea Mills spoke as the objector
- vii. Glenn Crocker spoke as the agent
- viii. Cllr K Grantham spoke on behalf of Willand Parish Council
- ix. Cllr T Pointing spoke on behalf of Uffculme Parish Council
- x. Cllr R Radford spoke as Ward Member
- xi. The following late information was received:

The report is the same as presented at 18th August committee, the updates reported at that meeting are repeated below. Following that meeting the application was deferred to enable a full Planning Committee site visit to take place to enable Members to view the site and development which had already

taken place and to view the highways arrangements. A member site visit has now been undertaken (Friday 3rd September). Please see below additional updates;

- Condition 8 is amended (reference to County Planning Authority replaced by Local Planning Authority):

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 Local Planning Authority.

- Following queries raised by members at the site visit regarding the Highway Authority consultation response and figures provided in relation to accident figures, the Highway Authority have provided the following response (email 6th Sept) "The information I gave in my response with regards the accidents which had been reported to the Police between 1/1/2015 and 31/12/2019 is correct which is one slight Accident on 25/8/2016 involving 3 vehicles with one casualty. I have no records of any other accident in the area of the proposed access. There are a few other accidents on Uffculme Road but not in the area of the proposed access."

Updates carried forward from 18th August

1. At page 3 under the proposed development section, the area of the site that has previously been used for the siting of three mobile homes is approximately 0.13 hectares rather than 1.3 hectares as stated.

2. Since the officer report was drafted further representations have been received from a member of the public and CPRE Devon, the additional points that have been raised and were not previously listed within representations are summarised below;

- Clarity is sought on the up to date supply and need for gypsy and traveller sites to justify a permanent gypsy and traveller site for 6 units in this countryside location
- Why has the GTAA not been updated in 7 years?
- As a permanent site for 6 units how does this compare to the size of existing allocated sites?
- Does the scale of development provide a well balanced site where amenity, security and management are achievable?
- How does the appraisal relate to national standards applied to housing and the specific requirements of gypsy and travellers in terms of pitch and size of pitch?
- There is no measurable biodiversity net gain attributed to this proposal to align with national planning policy and the emerging Environment Bill.
- Where is the Landscape and Visual Impact Appraisal to justify mitigation methods being conditioned?
- Clarity is needed in relation to the poultry unit and regularisation of this situation.

Officer comments in response to the points raised:

Policy position: The Inspector responsible for examining the Local Plan did raise some issues in relation to the provision for Gypsies, Travellers and Travelling Showpeople and noted that it does not provide in full, in specific terms at least, for the need identified in the

Plan for 35 pitches for Gypsies and Travellers and 11 plots for Travelling Showpeople. This was considered in detail throughout the examination process. However, as the Council has a demonstrable record of windfall sites for Gypsies and Travellers coming forward and provided that relevant policies make proper provision for these windfall sites to come forward (which was subject to Main Modifications), the Inspector was content that the Plan can still function in a positive and effective way. The GTAA is due to be updated later this year/early next year. Officers are currently preparing a project brief and have started discussions with the Exeter Housing Market authorities to progress this in partnership.

Housing standards/layout/ amenity: The allocated gypsy and traveller sites are for between 5- 10 pitches, these form part of the larger site allocation, the allocations do not specifically identify a site area for the pitches. The technical housing standards- nationally described space standard would not be applicable to a development of this nature. The submitted block plan demonstrates pitches are large enough to accommodate a mobile home, touring caravan, parking and amenity space.

Ecology: Section 7 of the officer report sets out the biodiversity enhancements that the ecologist recommends are incorporated in the scheme (bird and bat nesting boxes), this is in addition to the 110m of new native hedgerow that is proposed to be provided which would secure a net gain in the hedgerow habitat on the site. The percentage net gain has not been calculated using the Natural England biodiversity metric tool, however as the Environment Bill has not yet been passed this is not a statutory requirement and officers are satisfied, based on the ecologist's advice and mitigation and enhancement measures that can be secured by condition (see conditions 3, 11, 14 and 16) that appropriate biodiversity enhancements can be secured in accordance with policies S1 and S14 of the Mid Devon Local Plan.

L VIA: In this case it was not considered necessary to require a Landscape and Visual Impact Appraisal, the case officer has visited the site and the assessment of landscape and visual impacts are set out at section 3 of the officer report.

Poultry unit: it is reiterated that the unauthorised development outside of the site area does not form part of this application. It is likely that a Public Health Officer will be in attendance at committee to advise on their involvement in relation to the environmental concerns that have arisen on site.

3. As indicated at section 6 of the officer report a condition is proposed to secure an appropriate method of surface water drainage;

19. Within 3 months of the date of this decision there shall be submitted to, and approved in writing by, the Local Planning Authority full details of the means of surface water drainage from the site which is to be implemented in

accordance with the phasing plan outlined in condition 3 above. The submitted details shall include results of infiltration testing in accordance with BRE Digest 365. For the avoidance of doubt, the approved drainage infrastructure shall be implemented in accordance with the phasing plan required by condition 3 which will set out the timeframe for completion of the approved works.

Reason: To ensure a satisfactory and sustainable surface water drainage system is provided in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013- 2033.

## 87 MAJOR APPLICATIONS WITH NO DECISION (4.38.30)

The Committee had before it, and **NOTED**, a \*list of major applications with no decision

It was **AGREED** that:

Application 21/01576/MOUT - Land at NGR 298976 112882 (Hartnoll Farm) Tiverton, Devon - Outline for the extension of existing business park for up to 3.9ha of employment land and up to 150 dwellings with associated infrastructure and access with all other matters reserved be brought to Committee and a full Committee site visit take place.

Note: \*list previously circulated and attached to the minutes

## 88 APPEAL DECISIONS (4.40.16)

The Committee had before it, and **NOTED**, a \*list of appeal decisions

Noted: \*List previously circulated and attached to the minutes

## 89 PLANNING PERFORMANCE (4.40.37)

The Committee had before it, and **NOTED**, a \*report of the Consultant Development Management Manager which outlined the performance aspects of the planning function.

The officer explained that the Planning Authority had determined 91% of major applications within the required timeframes as was placed second in the South West region.

He highlighted:

- Major overturns were below the Government target of 10% had risen to above 7%.
- There had been no return of fees under the planning guarantee
- Enforcement action and visits had reduced due to sickness and staff vacancies but 2 additional enforcement officers had been recruited
- The number of planning applications had increased

Note: \*Report previously circulated and attached to the minutes

(The meeting ended at 7.33 pm)

**CHAIRMAN**

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## PLANNING COMMITTEE AGENDA - 22nd September 2021

### Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	21/00787/FULL - Erection of 2 residential flats at Adjacent to 24 & 24A Siddalls Gardens, Tiverton, Devon. <b>RECOMMENDATION</b> Grant permission subject to conditions.
02.	21/01421/FULL - Installation of concrete ramp and railings to front access at 49 Bilbie Close, Cullompton, Devon. <b>RECOMMENDATION</b> Grant permission subject to conditions.

**Application No.** 21/00787/FULL

**Plans List 1**

**Grid Ref:** 113080 : 296252

**Applicant:** Mr M Lowman

**Location:** Adjacent to 24 & 24A  
Siddalls Gardens  
Tiverton Devon EX16  
6DG

**Proposal:** Erection of 2  
residential flats

**Date Valid:** 5th May 2021



**REPORT OF THE HEAD OF PLANNING AND REGENERATION**

**21/00787/FULL - ERECTION OF 2 RESIDENTIAL FLATS - ADJACENT TO  
24 & 24A SIDDALLS GARDENS TIVERTON DEVON EX16 6DG**

**Reason for Report:**

This report is before the Planning Committee as it was submitted by Mid Devon District Council and therefore cannot be determined under delegated powers

**RECOMMENDATION(S)**

Grant planning permission subject to conditions

**Proposed Development**

Planning permission is sought for two-storey extension to existing residential block to accommodate two additional Flats: 7.2m Wide x 8.97m Deep x 5.1m (eaves)/ 7.66m (ridge) Height

**Applicants Supporting Information**

Application form

Proposed plans and elevations

**Planning History**

81/00302/FULL - DEMCON date 9th April 1981. DEEMED CONSENT for the change of use of 4 houses to 8 one-bedroomed flats.

20/01983/FULL - PERMIT date 12th March 2021. Rendering of ground floor flats.

21/00787/FULL - PCO date. Erection of 2 residential flats.

**Development Plan Policies**

Mid Devon Local Plan 2013-2033

Policy S1 (Sustainable development priorities)

Policy S9 (Environment)

Policy S10 (Tiverton)

Policy DM1 (High quality design)

Policy DM2 (Renewable and low carbon energy)

Policy DM5 (Parking)

Policy DM11 (Residential extensions and ancillary development)

### National Planning Policy Framework

Chapter 2 (Achieving sustainable development)

Chapter 12 (Achieving well-designed places)

### **Consultations**

#### Tiverton Town Council / Ward Member's

No comments received

### **South West Water**

Stance: Customer made comments neither objecting to or supporting the Planning Application

#### Comment Reasons

Comment: Please find enclosed a plan showing the approximate location of a public 150mm sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

Please click here to view the table of distances of buildings/structures from a public sewer.

Further information regarding the options to divert a public sewer can be found on our website via the link below:

[www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-ofpublic-sewers/](http://www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-ofpublic-sewers/)

### **Clean Potable Water**

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

### **Foul Sewerage Services**

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by

the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

[www.southwestwater.co.uk/developers](http://www.southwestwater.co.uk/developers)

### Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Runoff

Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer.(Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that discharge to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email:

[DeveloperServicesPlanning@southwestwater.co.uk](mailto:DeveloperServicesPlanning@southwestwater.co.uk).

### Highway Authority

MDDC to follow Standing Advice issued by Highway Authority.

### Public Health

Contaminated Land: No concerns. (05.06.21).

Air Quality: No concerns. (05.06.21).

Environmental Permitting: No objection to the proposal. (13.05.21).

Drainage: No concerns. (05.06.21).

Noise & other nuisances: No concerns. (05.06.21).

Housing Standards: The layout of the two flats means that the bedrooms are inner rooms with no safe primary means of escape in the event of a fire. If the reliance is to be on escape windows then consideration will need to be given to the type of future resident and mobility needs. The bathroom layout indicates this may be used for disabled persons in which case a primary escape route with a corridor from the bedroom direct to the outside would be a more suitable layout and may mean the layouts of the flats need to be altered. (28.05.21).

Licensing: No comments. (13.05.21).

Food Hygiene: No comments. (13.05.21).

Private Water Supplies: Not applicable. (13.05.21).

Health and Safety: No comments. (13.05.21).

### **Representations**

Twelve neighbours notified.

No response received.

### **Site and Surroundings**

Application site lies to the mid northside of Siddall Gardens in an established residential area; within Tiverton settlement confines. The two-storey host block of Flats/ building is rectangular in layout and the current proposal would be attached to the eastern flank wall. There is communal amenity garden in the main to the rear of the host building.

### **Material Considerations and Observations**

#### Principle of the development

S.38[6] of the Planning and Compulsory Purchase Act 2004 requires 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. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.

The site is located within Tiverton settlement boundary confines; within a central/sustainable residential neighbourhood; and where local plan policy S10 states amongst other criteria that proposals will provide for approximately 2358 dwellings, of which 660 will be affordable housing over the plan period (2013 – 2033). Therefore, the principle of the proposed development is acceptable. However, it remains to be seen whether all material considerations are satisfied; these are discussed below.

### Character and appearance

The NPPF attaches great importance to the design of the built environment, stating good design is a key aspect of sustainable development and should contribute positively to making places better for people. It stresses the need to plan positively for the achievement of high quality and inclusive design for all development. While it states that local authorities should not impose architectural styles or particular tastes, it reinforces that it is also important to consider local character and distinctiveness.

In addition to the specific NPPF requirements set out above, paragraph 39 stipulates that applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.

The application form at question 23 indicates that no pre-application advice or assistance has been sought from the Council. The NPPF from paragraph 39 extols the virtues of applicants engaging in pre-application discussion with the council to resolve any issues that may arise to help applicants avoid any unnecessary delays and costs.

Although the proposed flats are self-contained dwelling units, the proposed development is an extension to existing residential block of flats and local plan policy DM11 is of relevance.

Policy DM11 states that extensions to existing dwellings and other ancillary development will be permitted that they:

- (i) Respect the character, scale, setting and design of existing dwellings;
- (ii) Will not result overdevelopment of the dwelling curtilage; and
- (iii) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

The current proposal in mimicking the scale and design of the existing building is considered a sympathetic addition. On implementation, there would still remain ample amenity space to the rear of the host building. There is potential for overlooking of neighbouring curtilages from the upper floor rear/side fenestration of the proposed building and a relevant condition is suggested in case of approval to address this concern.

### Impact on residential amenity of surrounding properties

Local plan policy DM1 stipulates details relating to the protection of amenity of neighbouring occupiers. At chapter 12 of the NPPF, the government requires new development to provide a good standard of amenity for all existing and future occupants of land and buildings. As noted above, there is potential for overlooking of neighbouring curtilages from the upper floor rear/side fenestra of the proposed building and a relevant condition is suggested accordingly. Otherwise, it is considered that, there is considerable separation distances between the proposed dwellings and the neighbouring dwellings(s). Accordingly, no further issue is raised in respect of harm to residential amenities of neighbour(s).

## Housing Supply

The application would arguably make, a minor contribution to the Council's housing targets; but nonetheless a contribution (of 2 dwelling units).

## Standard of accommodation

Flat	Proposal Details	Bedroom sizes  Nationally Described Space  (sqm)	Proposed Flat(s) Internal Space  (sqm)	Required Nationally Described Space Standard  (sqm)	Spatial standard  comment(s)
	-Occupancy  -Bedroom sizes  -No of habitable rooms				
Ground Floor	1b/1p-2p  <b>11.1sqm</b>	11.5 (double bed)  7.5 (single bed)	<b>45</b>	39 (1p)  50 (2p)	Modest shortfall in floor area and size of bedroom.
First Floor	1b/1p-2p  <b>12.46sqm</b>	11.5 (double bed)  7.5 (single bed)	<b>48</b>	39 (1p)  50 (2p)	Modest shortfall in floor area

The above table sets out the proposed self-contained flats against the Nationally Describe Space Standards (NSDCC).

The site is owned by Mid Devon District Council and as part of the Council's commitment and function to provide social and affordable housing, it is looking at ways to increase its existing stock numbers to meet demand. As well as looking at new sites for development, the council is identifying underused parcels of land it already owns and utilising the space for residential use.

Nationally Described Spaced Standards is useful for assessing the quality of living conditions for future occupiers. The proposed flats in terms of their area, layout and circulation and provision of outlook are considered to be able to provide a satisfactory standard of living accommodation for future residents.

## Car Parking and Amenity space

No on-site car parking is proposed. This is consistent with the existing development and officers are content that with the sustainable town centre location and lack of objection from the County



Highway authority and the ample amenity space to the rear of the host building remaining that this is acceptable and in accordance with Policy DM5 of the local plan.

### Ecology

A survey by Western Ecology found no bats, or evidence of bats, were found associated with the building nor any evidence of nesting birds. It is therefore considered no ecological issues arise as a result of this development proposal.

## **CONCLUSIONS**

In conclusion, the proposal provides a modest contribution to the borough housing supply, with 2 residential units of an acceptable standard of living accommodation in a sustainable location within Tiverton Town Centre.

It is considered that on balance this make a positive contribution to the planning and development of the area and accordingly officers recommend that planning permission be granted subject to conditions as set out below.

The proposal is therefore considered to comply with relevant policies of the Mid Devon Local Plan (2013-2033) including Policy S1 (Sustainable development priorities), Policy S9 (Environment), Policy S10 (Tiverton), Policy DM1 (High quality design), Policy DM2 (Renewable and low carbon energy), Policy DM5 (Parking), Policy DM11 (Residential extensions and ancillary development); and National Planning Policy Framework (2019; as amended) and no other material considerations indicated outweigh the recommendation for conditional approval.

## **CONDITIONS**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

Date received	Reference number	Description
---------------	------------------	-------------

	PP 03	Site location plan & block plan
--	-------	---------------------------------

	PP 02	Proposed elevations
--	-------	---------------------

	PP 01	Proposed ground floor, first floor and roof plan(s)
--	-------	-----------------------------------------------------

3. The materials and finishes to be employed on the external faces of the development, hereby permitted, shall be as specified in the approved plans and match the existing block of Flats.

4. The development shall not be occupied until refuse/bin storage facilities have been provided in accordance with details, to include proposals for maintenance and management of the storage area, which have first been submitted to and approved in writing by the local planning authority prior to occupation of the units hereby approved.

## **REASON FOR CONDITIONS**

1. This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in the interests of proper planning and development
3. To ensure satisfactory visual relationship of the new development to the existing development
4. In the interests of local amenity.

## **INFORMATIVES**

1. 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. No persons that could be affected by the development have been identified as sharing any protected characteristic.
2. The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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.
3. In accordance with Paragraph 38 of the National Planning Policy Framework, the Local Planning Authority has worked proactively and positively with the applicant. This has included carrying out pre-application discussions and further negotiations/discussions during the application process.

Application No. 21/01421/FULL

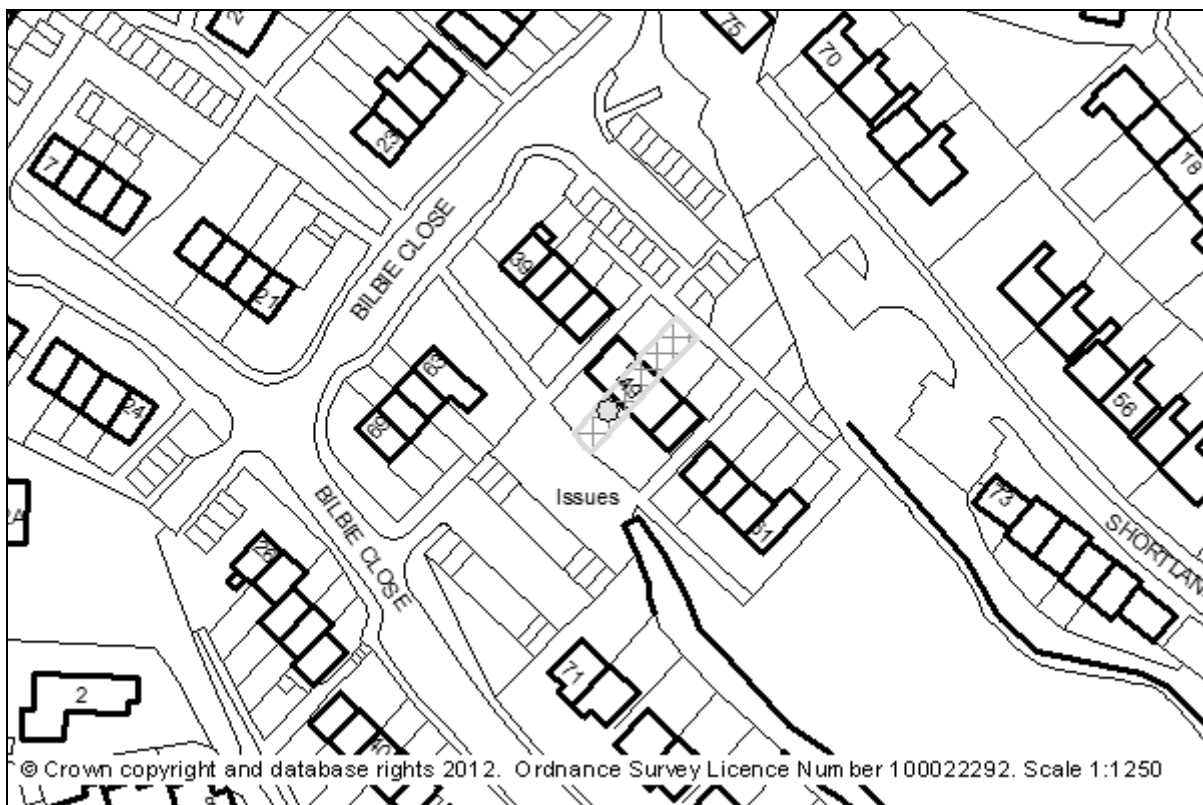
Grid Ref: 301617 : 107212

Applicant: Mr & Mrs Casey

Location: 49 Bilbie Close  
Cullompton  
Devon  
EX15 1LG

Proposal: Installation of concrete ramp and railings to front access

Date Valid: 28th July 2021



**APPLICATION NO: 21/01421/FULL**

**Site Visit: Yes     Date of Site Visit: 8/9/21**

**Decision Delayed Reason:** To allow the application to go before committee.

## **CALL-IN**

MDDC are the agent for the application.

## **RECOMMENDATION**

Grant permission subject to conditions

## **PROPOSED DEVELOPMENT**

The proposed development is for the installation of concrete ramp and railings to front access at 49 Bilbie Close, Cullompton. The site is within the Cullompton settlement boundary but outside of the Conservation Area. The proposal itself seeks to install a ramp to the front of the property leading to the front door. It includes a galvanised hand rail on either side approximately 900mm high.

## **APPLICANT'S SUPPORTING INFORMATION**

Site location plan, block plan and proposed plans.

## **RELEVANT PLANNING HISTORY**

**77/01087/FULL** - PERMIT date 18th October 1977(a) Erection of 76 dwellings and 52 garages with associated site work including car parking areas and land drainage  
(b) Use of land as an open space

## **DEVELOPMENT PLAN POLICIES**

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

S1 – Sustainable Development

S11 – Cullompton

DM1 – High Quality Design

DM11 – Residential Extensions and Ancillary Development

### **Cullompton Neighbourhood Plan (2020-2033)**

TC02 Character of the Built Environment

## **CONSULTATIONS**

### **Highway Authority, 10<sup>th</sup> August 2021:**

The County Highway Authority have no comments to make on this application.

### **Environment Agency:**

Householder extension or alteration within Flood Zone 1 - No Environment Agency consultation required.

**Cullompton Town Council:**

No comments received.

## **REPRESENTATIONS**

The application was advertised by means of site notice and an advert placed in the local paper. One general comment has been received at the time of writing this report. The comment requested an additional aerial (block) plan and clarity as to whether the development would impact their property.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issue in the determination of this application is:**

- 1. Policy, procedure and principal of development.**
- 2. Other material considerations**

### **1. Policy procedure and principal of development**

Policies S1 and S13 of the Mid Devon Local Plan (2013-2033) outline the acceptable forms of development in the town of Cullompton. They allow for appropriately scaled residential development. More specifically, policy DM11 supports householder development subject to the following criteria:

“a) Respect the character, scale, setting and design of existing dwelling;  
b) Will not result in an over-development of the dwelling curtilage; and  
c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.”

A summary assessment of the scheme against these criteria is set out below:

- a) The proposed ramp is to the front of the dwelling allowing disabled access to the front door from the public pathway, covering approximately 8.9 metres in total length. The width is approximately 0.9m as shown on the submitted elevation and block plan. Galvanised hand rails are proposed on either side of the path approximately 0.9m tall with a mid-rail at approximately 0.45m. The scale or appearance does not detract from the character of the existing dwelling which carries little architectural merit. The appearance of the ramp is considered appropriate and overall the scheme respects the character, scale, setting and design of the existing dwelling.
- b) The property benefits from both front and rear garden areas. The ramp will be built upon an existing path and therefore there will be no significant impact on the property garden areas or curtilage.
- c) The property is within a terrace of four with adjoining neighbours on either side. Given the nature of the ramp and handrails, there are no concerns with regards to loss of light or overlooking. The ramp and handrail are modest in scale and will sit comfortably in the

street scene, there are therefore no significant concerns with regards to overbearing impacts and overall neighbourhood amenity is protected.

Overall the scheme is considered to comply with DM11 of the local plan.

The Cullompton Neighbourhood Plan was adopted in May 2021. Policy TC02 of the plan states that development should contribute positively to the built environment by:

- i. demonstrating an understanding of the diverse qualities that contribute to this character; and
- ii. reinforcing local distinctiveness and a strong sense of place.”

Given the minor scale of the proposal and lack of architectural merit along the existing terrace, there are no concerns that the proposal will detract from the qualities or character of the area or its sense of place. Therefore it is in accordance with TC02 of the Neighbourhood Plan.

## **2. Other material considerations**

The letter of representation received raises concern about the width of the path and whether the handrail will be installed on their property. Additional plans including a revised block plan were submitted which confirm that the development will be contained within the property boundary.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.

## **INFORMATIVES**

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 that could be affected by the development have been identified as sharing any protected characteristic.

## **REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT**

The proposed installation of concrete ramp and railings to front access at 49 Bilbie Close, Cullompton is considered acceptable in policy terms. The overall scale and design of the development is considered acceptable and will not result in an over-development of property curtilage. There will be no significant adverse impacts on the amenity of residents of neighbouring

properties or on the character of the built environment. As such, the proposal complies with policies S1, S14, DM1 and DM11 of the Mid Devon Local Plan (2013-2033), TC02 of the Cullompton Neighbourhood Plan (2020-2033) and guidance in the National Planning Policy Framework.

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.

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Application No. 19/01679/FULL

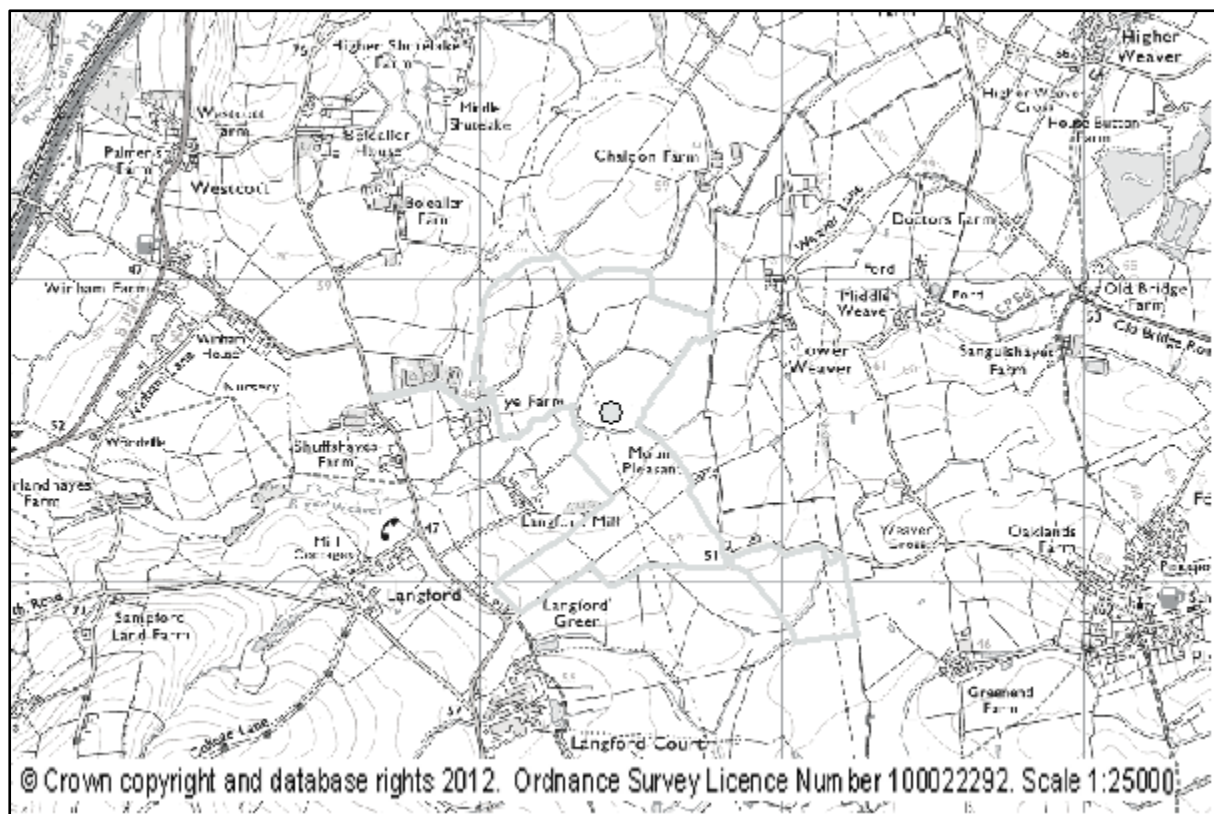
Grid Ref: 303437: 103555

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**  
**22 September 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 14<sup>th</sup> 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

## **REASON FOR FURTHER DEFERRAL**

At Planning Committee on 18<sup>th</sup> August 2021 It was RESOLVED to defer due to a dispute with the minutes of the Planning Committee meeting of 14<sup>th</sup> July 2021. The matter of dispute impacted on the reason for refusal which ought to have read:

- Adverse impact on the landscape;
- Adverse impact on the Grade 2 Langford Court;
- Additional loss of 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. This was further deferred at Planning Committee on 18<sup>th</sup> August 2021 due to a dispute with the minutes suggesting they are corrected by changing additional loss of 'high grade agricultural land' to 'agricultural land'. The three reasons given for being minded to refuse are as follows:

- Adverse impact on the landscape;
- Adverse impact on the Grade 2 Langford Court;
- Additional loss of 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 170 of the National Planning Policy Framework).

For information this is now paragraph 174 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 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 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 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.

However if members are reminded to refuse planning permission, the following reason for refusal are proposed:

1. The proposed development due to its scale, location, layout and appearance fails to understand the local visual and as such is contrary to Policies DM1, DM2 and S9 of the Local Plan and the Council's Supplementary Planning Document (SPD) –Solar PV Developments in the Landscape (2016) and paragraphs 176 and 177 of the NPPF 2021.
2. The proposed development due to its scale, location and appearance would have an unacceptable adverse impact on the setting of the Grade II Listed Langford Court, contrary to Policies DM2 and DM25 of the local plan and the provisions of paragraph 202 of the NPPF 2021".
3. The proposed development due to it scale and layout would result in the additional loss of agricultural land contrary to Policies S1, S9 and DM2 of the Local Plan and paragraph 174 of the NPPF 2021.

Contact for any more information

Myles Joyce, Consultant - Development Management – [mjoyce@middevon.gov.uk](mailto:mjoyce@middevon.gov.uk)

Background Papers

Committee report 01/03/2021 and deferred Committee Report 14/07/2021. Minutes of Planning Committee 14/07/2021(revised)

File Reference

19/01679/MFUL

Circulation of the Report

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## AGENDA ITEM

### APPLICATION NO. 19/01679/MFUL

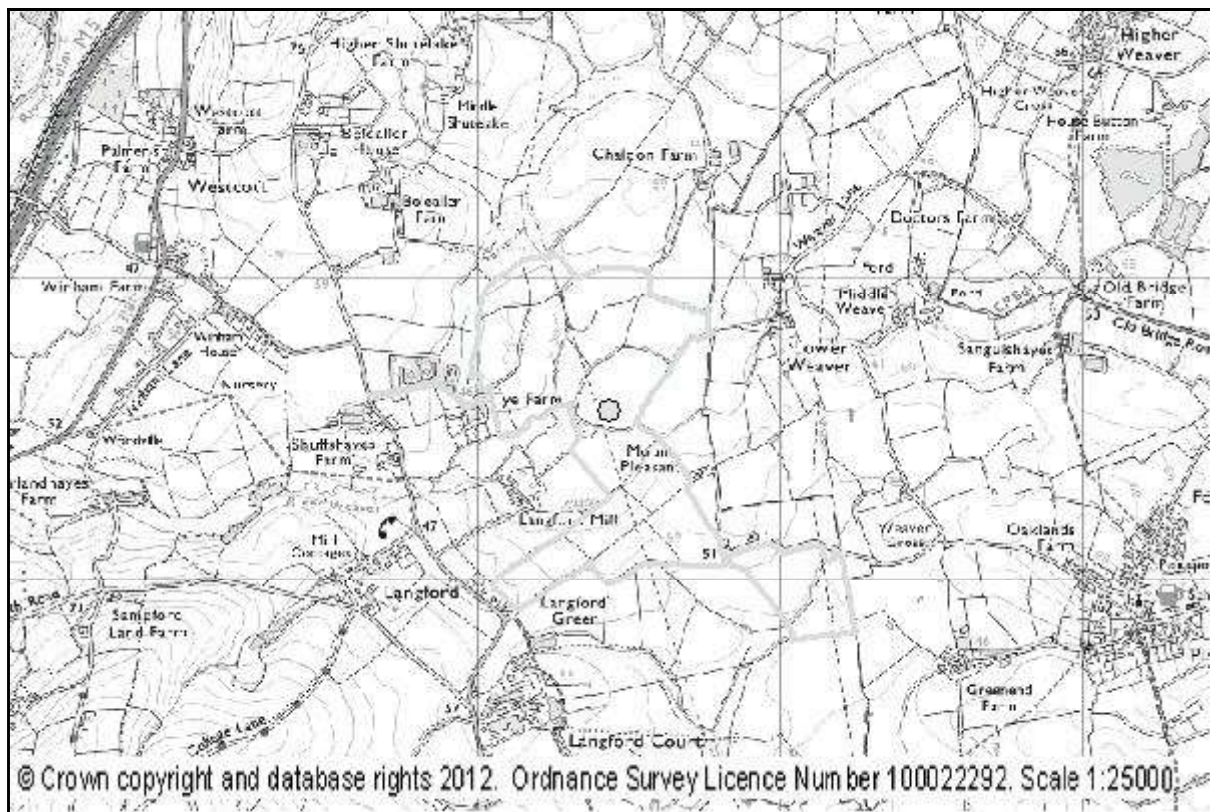
**Grid Ref:** 103644 : 303174

**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**  
**10<sup>TH</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.

## **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 a 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.

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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.

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#### 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.

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<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 it's 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.

## 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 proposal's 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 principle 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 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 associated 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.

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, dunnoek\*, 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 conditions 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  
19/01697/MFULL and development plan documents

Agenda Item No. 1

Application No. 19/01679/FULL

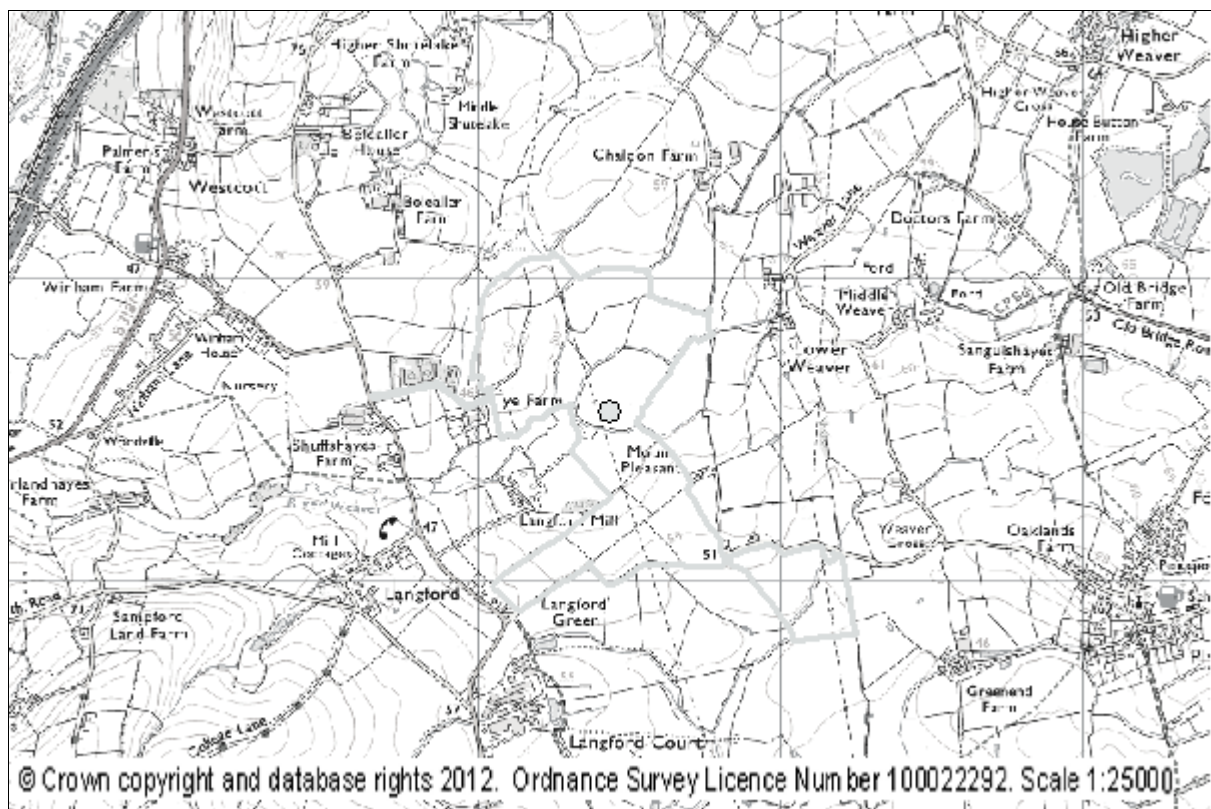
Grid Ref: 303437 : 103555

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



## **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 from 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 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.

# Public Document Pack

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 14 July 2021 at 2.15 pm

### **Present**

#### **Councillors**

Mrs F J Colthorpe (Chairman)  
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, B G J Warren and  
B Holdman

### **Apologies**

#### **Councillor(s)**

G Barnell

### **Also Present**

#### **Councillor(s)**

R Evans

### **Present**

#### **Officers:**

Myles Joyce (Consultant Development Management Manager), Arron Beecham (Forward Planning Officer), Nick Hill (Interim Planning Solicitor), Adrian Devereaux (Area Team Leader), Helen Govier (Principal Planning Officer), Daniel Rance (Principal Planning Officer), Carole Oliphant (Member Services Officer) and Sarah Lees (Member Services Officer)

## 39 **ELECTION OF VICE CHAIRMAN (0.04.04)**

Cllr P J Heal was duly elected Vice Chairman for the remainder of the municipal year.

## 40 **APOLOGIES AND SUBSTITUTE MEMBERS (0.05.55)**

Apologies were received from Cllr G Barnell who was substituted by Cllr B Holdman.

## 41 **HYBRID MEETINGS PROTOCOL (0.06.10)**

The Committee had before it, and **NOTED**, the Hybrid Meetings Protocol.

Note: \*Protocol previously circulated and attached to the minutes.

## 42 **PUBLIC QUESTION TIME (0.06.25)**

**Jan Jones** spoke in relation to the proposed Solar Farm at Langford..... I am speaking on behalf of the residents of Langford and the surrounding areas who are unable to attend due to work commitments. I have two questions, my first is, can you tell me why this proposal is even being considered if in the Mid Devon Solar PV development in the landscape document it states that in this area i.e. the Lowlands

Plane LCTVE, above 15 hectares, would be classified as a high sensitivity area and this proposal is 4 times that at 60.7 so therefore should be rejected? This question was not answered by the case officer in the planning balance section of his report.

My second question is, after 40 years of operation the soil will be severely degraded and recommissioning would have to be carried out with care to prevent damage to solar panels and leakage of toxic materials i.e. cadmium. How will this be done as the application says nothing about the decommissioning? I understand that after ten years of operation, the site could be reclassified as brown field. Is the Committee happy that this might mean the land is forever lost to agriculture and could become an industrial or housing estate?

**Michael Jones** spoke in relation to the same application.....At the previous meeting at which this application was discussed a question was asked as to why the reasons for rejection had been reduced to half a page of bullet points. The answer given was that the members of the committee could read all the objections. Surely it is the purpose of the officer's report to present all the facts. Can you state how many members of the committee have actually read all the objections?

Second question, it was stated in the previous minutes and the quote "there would be a financial investment in the local economy with employment opportunities". Given the permanent loss of farm jobs and the supply chain, what are these opportunities? Contractors will use a transient workforce from outside the district and none of the investment will transfer to community jobs.

Third question, please can you clarify what provision has been made for the deer whose natural corridor runs directly from the solar farm along the River Weaver which has been observed by local residents for many years?

**Richard Hughes** speaking in relation to Deer Barn, Hockworthy stated..... If the investment is hugely disproportionate to the expected income making the proposal financially unviable will the application be refused? If it is not refused on these grounds, where in MDDCs Local Plan is there an indication that financially unviable businesses could be allowed?

If the Full Ecological Appraisal was based on incorrect information (regarding external lighting) and undertaken at a time when bats are hibernating (daylight hours in March) will the applicants be asked to commission a report based on correct facts and at an appropriate time of year for a fair report? Will the appraisal have provided false information on which the Wildlife Trigger Table was based?

With the site entrance being on a blind corner of a mainly single-track lane, and using a public footpath, there are concerns over highway and pedestrian safety - can a visit be made by Highways Agency in order to assess safety? (NPPF Para 109).

A static barn, used for the storage of camping facilities, was built on the site by the applicant last year without planning permission, however, it does not appear on the site plan and no retrospective mention of it seen in the application. Will this barn be addressed by the planning enforcement team at a later date?

The planning statement mentions glamping tents (in its title) but then goes on to mention pods and cabins, can we be assured that only TENTS are being considered as per title?



Are we correct in assuming that as permission is being sought PURELY FOR TWO GLAMPING TENTS all year round, any additional undisclosed structures, to include camping tents or 'pup' tents, will NOT be allowed?

IF the application was approved would the applicant be allowed to run 'permitted development camping' on the same site as the Glamping Tents?

**Helen Hitt**, also speaking in relation to the Solar Farm stated.....I am asking questions on behalf of all landowners involved in this application.

Our families have been farming in Langford for more than 100 years. We are proud custodians of this landscape and passionate about protecting and nurturing the countryside for the next generation of farmers and we have a responsibility to constantly adapt and respond to the challenges presented to us. In farming we continually hear that diversification is the key to our survival. Our land is an asset, and therefore, my first question is do you recognise the need for us as farmers to use this land to integrate renewable energy production into our farming practices to maintain a business that is both environmentally and economically viable?

My second question to the committee, is have you undertaken a site visit? If so you will have seen for yourselves that the proposed solar development is in an area of countryside where visible impact is incredibly low due to, the topography of the land and the existing trees and hedges that surround the fields.

Are the committee aware of the government's recent climate change policy? In it they state meat consumption should be reduced by 35% over the next 30 years. As a beef farmer I therefore will have to cut production by 35% and will need to find alternative land use.

I also ask the committee are you aware solar developments can only be built on land that is classified as grades 3, 4 and 5 which this project is? My land in particular is classified as grade 4 which I quote, is land which "suffers severe limitations that significantly restrict the range and/or yield of crops to be grown". It is land that is most suited to growing grass and this development will allow for that to continue.

As landowners the last thing we want to do is cover our fields in concrete for housing or destroy the soil through increasingly intensive farming practices. The proposed solar development would result in a conversion of the land to a low input organic permanent pasture. The soil quality will improve due to less compaction, no artificial fertilisers and no chemicals would be applied and sheep will continue to graze on the land. Fauna and flora will flourish. We believe this proposal maximises the full potential of this land area in a way that traditional farming practices just don't allow for.

Climate change is real, is here now and we have the ability to mitigate its impact. The demand for electricity is real, is here now and is only going to increase. Times and needs have changed and so too must our farming practices.

Are you the committee going to back this proposal which will go towards addressing these issues, support sustainable development and meet Mid Devon's net zero carbon emissions commitment that you have signed up to for the benefit of our future?

**Charlie Dowden** also spoke in relation to the Solar Farm application at Langford.....As a recent graduate of Exeter University's School of Geography and Sustainability, I - along with many of my peers - have legitimate concerns about the Devon that we will be left with in 50 years time. In May 2021, the Met Office (based down the road in Sowton) recorded that Devon experienced its wettest May on record, with an average of 192mm of rainfall, topping the record set in May 1869. In the spring of 2020 - Devon had its sunniest spring on record, beating the spring of 1948.

Whilst no single event can be linked to a changing climate; the likelihood of these wild fluctuations will only increase with time and demonstrate the increasing challenges the rural community face at a local level, when dealing with a problem of global scale.

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".

This application is an essential component of the local area's long term growth plan; supporting the success of our area through the provision of sustainable development and presents a unique opportunity to stand up for the needs and concerns of future generations by addressing the climate emergency. We have to act when a large opportunity for positive local change comes about and given this, my question to Mid Devon County councillors is, how are you going to demonstrate your commitment to future generations of Devonians and to young people in rural Devon today who are worried about how the changing climate will impact our lives in years to come?

**Roland Smith spoke in relation to the same application.....**I could not find any information about the energy storage capacity of the battery facility, say in kWh or MWh, said to have a power of 12MW. I trust you are not recommending approval without knowing this important basic parameter which will indicate how long the stored energy could possibly support the grid. What is the energy storage of the battery facility? Several conditions relate to the solar panels but why aren't there conditions controlling the battery storage facility as part of this proposal?

Under "noise/impact/amenity" the officer states the equipment does not operate during the hours of darkness. As this is the time we most need electricity for heat and light, may I ask: what is the point of taking 150 acres of land (the average size of one Devon farm) out of food production?

How can a solar farm connected to the national grid specifically benefit an average of 10,077 homes in mid Devon when the contribution of 49.9MW to the grid would generate, on average, a trivial and insignificant 0.016% of average demand and absolutely zero after sunset when demand is at its highest?

Are the committee members aware of recent research by three eminent scientists, published last weekend in the national press, which shows the danger of catastrophic fire hazard of containerised batteries, possibly causing explosions on the scale of that which destroyed the port in Beirut?

In response to a written parliamentary question about the hazards of mass deployment of lithium-ion batteries for grid storage, the minister on 12th July said "There are mechanisms in place at a local level to assess the environmental impacts and benefits of lithium-ion battery storage projects. Any applications for such projects will be carefully assessed by relevant decision-makers against all relevant criteria." Can you say where the environmental impacts (which will include the hazards from fires and explosions and toxic gases) have been carefully assessed by the officer and will they be carefully assessed by the committee members?

In the event of a thermal runaway as I've already described, it would fall on the local fire service to deal with the incident. Is there an adequate water supply available on site to deal with such an incident? Also, on 12th July a government minister said "In addition, for large scale battery storage, there are statutory requirements to notify the Fire and Rescue Service to inform their emergency response planning." Can you tell me if Devon and Somerset Fire and Rescue Services have been informed, and if so, what was their response?

I know that this is not a planning issue, but are the members of the Committee aware of the huge amount of adverse publicity that Mid Devon District Council will receive if you approve this planning application with its London-based applicant profiting from human rights abuses in China?

**Robert Deane** also spoke in relation to the Solar Farm application.....Thank you for the opportunity to ask a question. If I may, I'll give a little context before asking my question.

I've paid close interest to the application because we neighbour the site, living just 340m from it. After weighing up the issues, I submitted a comment in support of the application, raising points which I hope address some of the concerns of objectors - for instance the negligible effect of the solar farm on food production, the new habitats that will be created and the reduction in greenhouse gas emissions from the land.

I take the view that solar farms like this are a necessary part of the country's transition to net zero. The visual impact on the landscape is a matter of personal opinion and, for me, solar farms are a sign of the changes we should all be making if we want to reduce climate change and keep the lights on.

The site is not in an area of particularly high landscape quality and is largely hidden from public view. Converting the land on which the solar panels will sit from low grade arable and pasture to nature-friendly permanent pasture offers significant benefits such as enhanced biodiversity, reduced greenhouse gas emissions and

carbon sequestration in the soil. These benefits would not be achieved from roof-top solar.

So my question – actually two related questions. I would like to ask the Planning Committee, if they decide this solar farm should not go ahead, where they think is suitable in Mid Devon? And related to this, what steps is the Council taking, through its planning policy, to support the switch to renewable energy generation?

**Mandy Willis** speaking in relation to the same application stated.....can you tell us how many councillors have made any kind of site visit. We have offered access to our property available on many occasions since the March meeting and no member has made contact with us. A view from a road side drive by is not sufficient to understand our concerns as a resident directed affected by this application.

The developers have put in place flood prevention measures. Can you tell us what would happen if these were to fail? The fields that immediately backs onto our property, has been known during heavy rainfall to have a substantial amount of water pour off it into the stream that separates our boundaries coming into our garden and flooding it. I would like to refer Members to photographs take of our property submitted to the March meeting as a reminder.

Will the security fencing and security lighting and where will this be sighted? If so how ill this impact on the bat colonies that we know inhabit this areas? Will this also impact on the residents whose properties also border the proposed site for this lighting?

Are the Committee members aware how close the panels will be to our house? According to the plans submitted the panels will begin only 25m from our own boundary. Currently there are a few trees shielding the view of this but they are not evergreen and our view for a good part of the year will be a security if this tree line or hedgerow is removed by the developer and any infilling should be evergreen and of a height to prevent any view of security fencing, potential glare, road noise and CCTV to at the very least maintain our privacy, health and well being.

It was a constant disappointment that considering the obvious impact on our house and others in our road that the developer did not in any way reassure us as to any impact the development would clearly have. However, after an email we sent to the developer yesterday, contact has been made and a dialogue opened as to how some of our concerns can be mitigated but we were led to believe that the owner of this field would consider removing it and we would ask that this suggestion is perhaps put to the developer or even better put as a condition of any planning decision the committee should subsequently make.

**Heather Wheeler**, again speaking in relation to the Solar Farm stated.....the Officer's Report concludes that the scheme will make a valuable contribution to cutting greenhouse gas emissions, allowing Mid Devon to address the Climate Emergency.

The Applicant made a subordinate claim that the scheme could result in net biodiversity gain.

In its early response, the county's premier ecology charity, the Devon Wildlife Trust, concluded its detailed comments by recommending the involvement of a Habitat Restoration Ecologist in the drawing up and subsequent management of an Ecology Enhancement and Management Plan to 'give credibility' to any proposals.

Its status as a Charity with strictly limited resources has precluded further contributions but the recommendation still stands. A Biodiversity Clerk of Works, as later proposed by the Applicant, is not required to have habitat restoration expertise and is not a substitute for a Habitat Restoration Ecologist.

Why has the Council ignored a recommendation by DWT, which could enable the scheme to double its benefit by tackling not only the Climate Emergency but also the equal emergency of Biodiversity loss?

**Rupert Grantham** spoke in relation to the Buccaneers Bar planning application.....

Policy DM23, of the recently adopted Local Plan, is opposed to the loss of a valued community facility such as this, unless the facility is proved to be no longer economically viable. The Plan (para 4.71) requires that 'Assessment of viability will require the submission of detailed evidence relating to trading accounts, valuation considerations and the marketing of the business or property at a reasonable price for a minimum of 12 months'. Yet the report makes no mention of this, choosing instead (p58) to rely on the owner's assertion that the business has not been profitable for the past 4 years. Why has the Plan's test not been applied here?

The report contends (p58) that approval of this application would enable the Dairy to expand their activities and increase their workforce. Yet there is no obligation in place to link this aspiration to the permission, should it be granted. So will any weight be given to this claim?

**Tom Devine** spoke in relation to the Solar Farm application at Langford.....have the councillors given any thought to the neighbouring solar farm facility at Tidehill which is just 1.2km away at the nearest point which is 158 acres? Although being in East Devon have they considered cumulative impact on the landscape and the possibility of further development of solar farms in this area or other parts of Devon at present potentially totalling 922 acres?

Secondly, developers quoted that the concerns of the local community and business have been met, but have they? There would considerable impact on tourism as they would be deterred from staying in an area surrounded by solar panels as there are several bed and breakfast and holiday lets which have been ignored. Why has this not been considered?

Finally, the proposal has over 20 miles of solar arrays, have you considered the impact of large vehicles visiting the site twice a year that will need to travel along the arrays to clean the panels using deionised water and applying weed killer and cutting the grass?

**Barbara Jones**, spoke in relation to the straw bale house at Stenhill application.....I understand that Mid Devon Council has declared a Climate Emergency and committed to be carbon neutral by 2030. If you are serious about that, you have to do things significantly different or as Henry Ford said if you always do things the way you always did you'll always get what you always got!



As planners you've the opportunity to implement the bigger picture. Keeping the Climate Emergency in mind you have the power to interpret planning policy in order to do something that actually makes a difference. Your officers may give a narrow focus that doesn't put the sustainability of the proposal first but as councillors you can be bold and make a statement that says Mid Devon District Council pays more than lip service to becoming carbon neutral.

I would have thought you would want to give a really clear message that says this is what we mean by an exemplar sustainable building but at the moment the recommendation is to refuse a zero carbon house. What message does that give? I personally have guided plenty of these sorts of buildings through the process and worked with some truly forward thinking planners.

My question to you is this ... are you, Mid Devon District Council willing to stand up and be counted and put your decisions where you say your commitments are?

**Terry Matthews** speaking in relation to the proposed Solar Farm stated.....given that such an installation could be in place for the next 40 years who will be responsible for ensuring that all these unique conditions will be complied with. Who will be responsible for ensuring that these conditions are delivered? What would be the consequences if they are not complied with especially regarding flood control and wildlife habitation? The last part of this question is, what are the consequences of non-compliance enforceable by MDDC over the next 40 years and what assurances do Mid Devon Council have for the long term capability of enforcing them? I ask that question because there are similar solar farms on a smaller scale not a million miles away where complaints have been made for example about screening and the developers have yet to address those.

The second question is, what in lay man terms are the benefits to local residents for such a huge installation?

**Sally Matthews** speaking in relation to the same application asked is there a minimum term for the duration of the solar panels? Are there any break clauses, for example, due to advances in technology that could lead to the agricultural land being changed to green field leading to its change in use?

Another question, what assurances can be given to the public that the planning decision will not be influenced by the perceived potential financial implications to Mid Devon District Council? I ask this question because the officer recommendation places a heavy weight on perceived potential, financial risks and hazards to MDDC in the event of an appeal or public enquiry?

**Tristan Parsons** – Provided the following statement which was read out by the Chairman:

Thank you for your invitation to the committee meeting for this application.

Unfortunately, I am unable to attend due to work commitments. I would be grateful if my original letter (forwarded below) could be read for the committee on my behalf or otherwise brought for consideration.

I have summarised my letter as follows:

- Devon and Mid Devon councils have set ambitious climate goals for 2030 and 2050.

- Transitioning away from fossil fuel energy production and towards renewables is essential for achieving these aims.
- These solar panels will significantly contribute to local energy needs, providing for 10,000 homes.
- The scheme will provide £190,000 in business rates for the council to fund other local needs.
- It will also contribute a biodiversity net gain on sub-prime agricultural land.
- The proposals are far more viable than other forms of panelling, such as industrial roofs.

**Richard Hughes**, again speaking in relation to the Deer Barn application at Hockworthy, specifically the erection of a new reinstated stone wall.....asked..... What are MDDC's Planning Regulations in relation to the removal of an established 'bank' and hedge, or any sort, within a conservation area?

What are MDDC's thoughts about the creation of an entrance way in a conservation area, without planning permission?

If an application and/or its supporting documentation are found to be misleading and/or contradictory in its claims will the application be considered?

This site has had a recent enforcement case against it with major implications on this application – this case appears to have been put on hold – if the terms of the enforcement case are NOT met by this application will the case be reinstated?

The Chairman stated that the questions would be addressed when each item was discussed.

#### 43 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.41.56)**

Members were reminded of the need to declare any interests when appropriate.

#### 44 **MINUTES OF THE PREVIOUS MEETING (0.42.04)**

The minutes of the meeting held on 23<sup>rd</sup> June 2021 were agreed as a true record and duly signed by the Chairman.

#### 45 **CHAIRMAN'S ANNOUNCEMENTS (0.42.55)**

The Chairman announced that Cllr D J Knowles had stepped back from the Planning Committee and she thanked him for his Vice Chairmanship and for the years he had served on the Committee.

#### 46 **DEFERRALS FROM THE PLANS LIST (0.43.45)**

There were no deferrals from the Plans List.

#### 47 **THE PLANS LIST (0.43.51)**

The Committee considered the applications in the \*Plans List.

Note: \*List previously circulated and attached to the minutes.

**a) Application 20/01631/FULL - Erection of a dwelling and construction of new vehicular access at Land and Building at NGR 305693 110454, (East Of Butsons Farm), Stenhill.**

The Planning Officer outlined the application and explained that the application site was in Stenhill which was not a defined settlement under Policy S13 of the Local Plan. The application site was, therefore, in the open countryside under Policy S14 where development was permitted subject to appropriate conditions. It was subject to the same restrictions defined under Policy DM6 such as affordable housing and local connections for residents.

The Officer outlined the application by way of a presentation which highlighted the block plan, floor plans, elevations, illustrations and photographs of the site.

In response to public questions he stated:

- The authority had recognised the green credentials of the scheme but the location had to be sustainable and not outweigh the emissions created by it. There were no public transport links close to the property

Consideration was given to:

- The siting of solar panels on the garage roof and electric car charging facilities to enable a more sustainable way of living had been incorporated in the design
- Officers views that the development location was not sustainable as it was not in a designated settlement and had no access to public transport or local infrastructure
- The views of the objector who stated it was a significant property in a rural area, there was no need for the dwelling when the applicants family already had a substantial building very close to the site
- The views of the supporter who stated that the applicant had met all the criteria of Policy DM6 apart from the location. The site was 1 mile from the settlement of Uffculme and other properties had been allowed on appeal. The development aligned with a top priority of the Council which was climate change
- The views of the Ward Members who stated the development was a design of exceptional build and quality, refusal was wrong as this was not just a house but a way of life and that the Council should be encouraging these sorts of self builds in rural locations
- The views of Members who felt that the location already had a number of large farmsteads around it and that now and again smaller properties were required in hamlets
- Members views were that any village property would need to rely on private transport due to the lack of public transport in rural areas
- Members views that if there was a barn on the site it would have been granted Class Q permission to turn it into a house anyway the only difference was this was a new build

It was therefore **RESOLVED** that: planning permission be granted subject to conditions delegated to the Head of Planning, Economy and Regeneration.



(Proposed by Cllr B G J Warren and seconded by Cllr L J Cruwys)

**Reason for the decision:** The application for the erection of a dwelling was considered to be supportable in policy terms, applicants had a local connection, the dwelling was sustainable and within a reasonable distance of a settlement. On this basis it was considered that planning permission could be granted, subject to conditions, in accordance with the development plan.

Notes:

- i.) Cllr B G J Warren made a declaration in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as the site was within his ward;
- ii.) Lynn Baird spoke as the objector;
- iii.) Stephen Gill spoke as a supporter;
- iv.) Cllr B Evans spoke as Ward Member
- v.) Cllr R J Chesterton provided a written statement which was read out by the Chairman

***b) Application 21/00229/FULL - Erection of a dwelling and demolition of existing agricultural building at Rosemount, Kentisbeare, Cullompton.***

The Area Team Leader outlined the application and explained that the existing agricultural building had previously been given Class Q approval to turn into a dwelling. The application today was to apply for new dwelling on site as a fall back proposal to the approved Class Q conversion approved, noting that if the dwelling was not approved a dwelling could still be created on the site using the fall back position of the original position for the conversion of the existing agricultural building.. He explained that two additional conditions had been included in the update sheet for a wild flower meadow to be secured and the removal of the existing building.

The Officer outlined the application by way of a presentation which highlighted block plans, the Class Q approval original design, an illustrative site layout, proposed roof and floor plans, proposed elevations and photographs of the site and existing barn.

In response to Member questions the Officer explained that a package treatment plant dealt with the foul drainage and was recommended by Public Health as an alternative to mains drainage or a septic tank.

Consideration was given to:

- The views of the objector who said the site was in a beautiful location and the application was a modern design which did not compliment the area, the site was on a dangerous road and there was no need for additional dwelling in the area. There were concerns with birds flying into glass and that the betterment was for the applicants only
- The views of the agent who confirmed that is permission was refused the applicant would use the fall back position as the Class Q had already been accepted and approved. The new design was a betterment and that the site was well screened

- The views of some Members who felt that the orientation was intrusive to other properties and that the site was on a busy road
- The views of Members who stated that the choice before them was to approve either a conversion of the original barn or allow the barn to be removed and replaced with a new build dwelling
- The views of Members that the current screening could become inadequate if trees had to be removed due to Ash Dieback which was prevalent in the area

It was therefore **RESOLVED** that: planning permission be granted and delegated authority be given to the Head of Planning, Economy and Regeneration to provide an additional condition with regard to:

- The replacement of trees which may need to be removed due to Ash Dieback to retain the screening from neighbouring properties.

(Proposed by Cllr P Heal and seconded by Cllr Mrs C P Daw)

**Reason for the decision:** As set out in the report

Notes:

- i.) Cllrs B G J Warren and S J Clist made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had been contacted by objectors;
- ii.) Cllrs S J Clist, B Holdman and B G J Warren requested that their vote against the decision be recorded;
- iii.) Rosanna Stancampiano spoke as the objector;
- iv.) Glenn Crocker spoke as the agent;
- v.) Cllr S J Clist spoke as the Ward Member
- vi.) The following late information was received:

21/00229/FULL - Erection of a dwelling and demolition of existing agricultural building – Rosemount, Kentisbeare, Cullompton.

9th July 21

Please see below for two additional conditions recommended to be imposed in order to secure biodiversity gains on site and to prevent an additional dwelling being achieved.

**Condition**

Prior to the first occupation of the dwelling hereby approved, the Wildflower Meadow as shown on drawing no. A0B REV E and identified as forming part of the ecological mitigation for the development shall be implemented with planting/sowing undertaken with the Wildflower Meadow retained in perpetuity thereafter.

**Reason:**

To ensure that the development makes a positive contribution to the character and amenity of the area and provides biodiversity gain in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.

**Condition:**

The existing building on site shall be demolished and all material not being recycled on site shall be removed within 3 months of the first occupation of the new property or its substantial completion, whichever is sooner.

Reason:

The site is in the open countryside where the provision of an additional dwelling is not supported by policy S14 of the Mid Devon Local Plan (2013-2033)

***c) Application 21/00443/FULL - Change of use of land for the siting of 2 glamping tents and associated facilities at Land at NGR 303735 119592, The Deer Barn, Hockworthy.***

The Principal Planning Officer outlined the application and explained that there was scope within the Local Plan Policies to consider rural tourism in the open countryside but it must demonstrate that the benefit would outweigh any harm. He explained that the site had been running the two glamping tents with a 28 day permitted use exception which had been extended by the Government to 56 days permitted use during the pandemic.

The Officer outlined the application by way of a presentation which highlighted site location plan, illustrative block plan, tent plans, toilet and W.C. block and photographs of the site.

In response to public questions he responded:

- Enforcement teams would pursue any areas of concern;
- Ecological surveys were carried out by qualified surveyors;
- The Highways Authority had no issues with the site entrance which was shared with Deer Barn, fields and a Class Q;
- Additional buildings did not form part of this application but could be subject to enforcement action if non compliant to Policy
- Noise generators were subject to environmental health conditions
- Enforcement teams would investigate any breach of conditions

Consideration was given to:

- The officers confirmation that with regards to the business case, neighbouring businesses had been investigated but there was not similar offering nearby;
- The Officers confirmation that there was no particular issue with noise on Glamping sites and this business promoted quiet times and star gazing;
- There was no ability for the tents to be changed to other structures without further planning permission;
- The views of the objectors who though was pleased with the changes to the application did not think it was a financially viable proposition. If Members were minded to approved requested conditions were put in place before the site was opened and that a condition be imposed that only solar power be used on site and not generators. A fire management plan should be requested due to the fire pit on site and there was no grey or foul water management plan;
- The views of the agent who stated that applicant was requesting permission to allow part of the site the change use beyond the temporary time limits already

permitted under Class A. The land is in agricultural use over the autumn and winter months and this was low impact and sustainable holiday accommodation. A robust business plan had been submitted which justified the countryside location;

- The views of the Ward Members who had concerns about the rural aspect of the site, highways concerns and local residents concerns about the costs involved in setting up the business. Members should give attention to the views of both objectors and supporters;
- Views of Members who felt there was no reason for the tents not to be there and that people were looking for just this type of holiday accommodation in these sorts of areas;
- Confirmation that there was already a management plan in place which covered excessive noise.

It was therefore **RESOLVED** that: planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr E J Berry and seconded by Cllr B G J Warren)

**Reason for the decision:** As set out in the report

Notes:

- i.) Cllrs F J Colthorpe, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal, B Holdman, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had been contacted by objectors;
- ii.) Cllr Mrs F J Colthorpe declared a personal interest as she had a friend with holiday lets in the area;
- iii.) Cllr S J Clist requested that his abstention from voting be recorded;
- iv.) Richard Hughes spoke as the objector;
- v.) Naomi Jackson, the agent, provided a written statement which was read out by the Chairman;
- vi.) Cllrs J Norton and Mrs C Collis, Ward Members, provided written statements which were read out by the Chairman

***d) Application 21/00471/FULL - Erection of new reinstated stone wall and entrance gates and retention of part of rebuilt stone wall at The Deer Barn, Hockworthy, Devon.***

The Principal Planning Officer explained that the wall to the north was in the garden of the Deer Barn and permitted development would have allowed it without permission up to a height of 1m. As the wall, as built, was 1.45m permission was required.

The Officer outlined the application by way of a presentation which highlighted site plan, elevations, and photographs of the site as it was now and before the wall was built.

In response to public questions the Officer provided the following:

- The Council had no authority over the removal of banks in private gardens;

- Creation of gateways was dependant on use and what the proposal was for;
- It is for the Authority to determine if the proposal is acceptable;
- Retrospective applications were allowed to rectify any issues and enforcement was always a last resort.

Consideration was given to:

- The views of the objector who stated that his concern was the north end of the wall and the removal of the hedge in a conservation area;
- The views of the agent that permission was being sought to retain a wall that had been built to rectify a stone boundary wall collapse as a result of ash trees having to be removed and that the new wall was on the same footprint using the same local stone. There had been no harm created upon heritage assets and the Conservation Officer had found the proposal acceptable;
- The views of the Ward Members who had concerns that residents believed the removal of the hedge had an impact on biodiversity. Members should give attention to the views of both objectors and supporters;
- The views of Members who felt that the wall was in keeping with the local landscape, local stone had been used and the wall itself would create a biodiverse impact.

It was therefore **RESOLVED** that: planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr E J Berry and seconded by Cllr Mrs C P Daw)

**Reason for the decision:** As set out in the report

Notes:

- i.) Cllrs F J Colthorpe, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal , B Holdman, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had been contacted by objectors;
- ii.) Cllr Mrs F J Colthorpe declared a personal interest as she had a friend with holiday lets in the area;
- iii.) Richard Hughes spoke as the objector;
- iv.) Naomi Jackson, the agent, provided a written statement which was read out by the Chairman;
- v.) Cllrs J Norton and Mrs C Collis, Ward Members, provided written statements which were read out by the Chairman

***e) Application 21/00461/FULL - Erection of extensions to existing agricultural storage building 660sqm at Land at NGR 288288 107120, Redyeates Cross, Cheriton Fitzpaine.***

The Area Team Leader informed Members that a further letter had been received from the CPRE which had been circulated to Members and was before them as part of the update sheet.

The Officer outlined the application by way of a presentation which highlighted site location and block plans, position of recently approved agricultural workers dwelling and photographs of the existing barn.

Consideration was given to;

- The views of the objector who stated that there would be up to 250 animals on site and he had concerns with the number of animals and the available land open to the applicant and concerns about animal density, pollution and waste;
- The views of the agent who stated that the application was supported by Natural England who had provided funding towards the development;
- The views of Members that comments from the Parish Council had not been provided;
- The views of Members that although the late letter from the CPRE had been summarised in the update sheet a full copy had not been provided to Members;
- The views of Members that a full final statement from Public Health had not been made available to them;
- The views of Members that they were unable to make a decision without all the information in front of them;

The Interim Development Management Manager explained to Members that late information was quite common with planning applications and that the Officer had provided them with a verbal update summary where written statements and representations had been received after the agenda had been published. He felt that Members had before them enough information to be able to make a decision.

It was therefore **RESOLVED** that: A decision on the application was deferred to enable the late information received to be included within a revised officer report so that Members could make an informed decision. The additional information requested were:

- The Parish Council response
- The latest Public Health update
- The full contents of the late letter received from CPRE

(Proposed by Cllr C Eginton and seconded by Cllr F W Letch)

**Reason for the decision:** Members felt that they did not have the full information to make an informed decision.

Notes:

- i.) Cllrs F J Colthorpe, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal , B Holdman, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had been contacted by objectors;
- ii.) Cllr Mrs F J Colthorpe declared a personal interest as she had been involved in the case at a Parish level and chose to leave the meeting and did not take part in the debate or the vote;
- iii.) Brian Thompson spoke as the objector;
- iv.) Simon Archer spoke as the agent;
- v.) The following late information was provided;



13.07.2021

1. One additional letter of objection received from Devon CPRE who raise concerns to the justification for the proposed building in terms of need and scale in the open countryside location, noting that the proposal is not supported by an independent agricultural appraisal nor a landscape impact assessment, to robustly support what would be an incongruous development in the rural landscape.

***f) Application 21/00709/FULL - Change of use from public house (sui generis) to offices and canteen facility (sui generis) at Buccaneers Bar, 3 Cinema Buildings, East Street.***

The Planning Officer outlined the application by way of a presentation which highlighted the site location plan, aerial photographs, block plan and parking layout, google street view and photographs of the interior.

The Officer advised Members that an Asset of Community Value had been listed with the authority but it had yet to be validated and would take up to 8 weeks to be confirmed. It had no material impact on the application before Members.

In response to public questions the Officer confirmed that consideration had been given to the viability of the existing business.

Consideration was given to:

- The views of the objector who stated that the bar was unique and was a purpose built entertainment centre. It held up to 170 people standing and offered good disabled access. That the Dairy did not need a canteen and they had groups who were keen to use the venue on the future;
- The views of Crediton Dairy who stated that their business processed 1% of the UK's milk supply and they put £40m into the local economy. They were a one site business and most of the staff lived locally. They needed a modern canteen to cater their highly skilled staff and had not been able to secure an alternative site in the proximity of the Dairy;
- The views of the Town Council who supported the Asset of Community Value. It was a great auditorium and a great location which would give opportunities to youth musicians. The local Arts groups had agreed it was an asset and the Dairy would expand anyway;
- The views of Members familiar with the venue who stated that the business had not been viable for many years;
- The views of Members that the Dairy should be supported to expand and invest in Crediton.

It was therefore **RESOLVED** that: planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr L J Cruwys)

**Reason for the decision:** As set out in the report

Notes:

- i.) Cllrs F J Colthorpe, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal , B Holdman, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had been contacted by objectors;
- ii.) Cllr S J Clist requested his vote against the decision be recorded;
- iii.) Helen Tuffin spoke as the objector;
- iv.) Phil Cork, Crediton Dairy, spoke in support;
- v.) Cllr Brookes-Hocking spoke on behalf of the Town Council;
- vi.) The following late information was provided:

9th July 21

1. Condition 3 is amended to reflect the updated drawing received and should now read as below. The parking plan has been amended to accommodate a total of 48 spaces including two disabled spaces. This is an increase of 18 from the existing provision, compared to 15 as previously proposed and set out within the officer report.

3. Within 3 months of the first use of the office and canteen hereby approved, the existing office and canteen building shall be demolished and replaced with additional parking spaces in accordance with the details as shown on drawing number PIN 1032-50.

13.07.21

1. Condition 3 is amended to reflect the updated drawing received and should now read as below. The parking plan has been amended to accommodate a total of 48 spaces including two disabled spaces. This is an increase of 18 from the existing provision, compared to 15 as previously proposed and set out within the officer report.

(condition 3 has been further amended since the update last week )

3. Within 3 months of the first use of the office and canteen hereby approved, the existing office and canteen building shall be demolished and replaced with additional parking spaces in accordance with the details as shown on drawing number PIN 1032-50. Once provided, the additional parking spaces shall be made available for use at all times by occupiers of the proposed office/canteen use of the site and retained as such thereafter.

2. Committee are advised that an application has been submitted to the Council to seek to list the site as an asset of community value (ACV). As of 13/07/2021 discussions with the Economic Development Team have confirmed that the application is not yet valid. Once validated, it would be subject to a consultation period before a determination is made as to whether it should be listed as an ACV. Guidance on the ACV process states that it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration, taking into account all the circumstances of the case. The provisions do not place a restriction on what an owner can do with their property, once listed, so long as it remains in their ownership. On this basis, and as the site is not currently listed as an ACV, it is your officer's view that the intention to seek to list the site as an ACV would not have a material impact to the assessment set out within the officer report at this stage and it is recommended that planning permission should be granted. Notwithstanding the committee decision as to whether planning permission should be



granted, the ACV process may at a later date have implications if the owner seeks to dispose of the site.

**48 TREE PRESERVATION ORDER - 21/00002/TPO - 13 The Oaks, Yeoford, Crediton, Devon (4.08.12)**

The Committee had before it a \*report of the Head of Planning, Economy and Regeneration with regard to an application for a Tree Preservation Order 13 The Oaks, Yeoford, Crediton, Devon.

The Planning Officer outlined the contents of the report by way of a presentation which highlighted the site location plan and photographs of the site and the trees.

It was **RESOLVED** that: the Tree Preservation Order be confirmed.

(Proposed by Cllr C J Eginton and seconded by Cllr B Holdman)

**Reason for the decision:** As set out in the report.

Notes:

- i.) Cllrs E J Berry and S J Clist requested their vote against the decision be recorded
- ii.) \*Report previously circulated copy attached to the minutes.

**49 Application 19/01679/FULL - 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. (4.12.46)**

The Committee had before it a report of the head of Planning, Economy and Regeneration regarding the above application. At the Planning Committee Meeting on 31st March 2021 Members deferred a decision on the above application in order that a site visit take place and officers provided responses to a number of questions raised.

The Interim Development Management Manager then provided responses to questions previous posed by Members which were set on the annex of this report.

The Officer then went on to outline the conditions agreed with the developer which would mitigate the impact of the development and gave detailed explanations of what the conditions were for and how they would be monitored.

In response to public questions the officer stated:

- Officers did not ignore the Wildlife Trust, revised condition 12 specifies regular monitoring
- He could not comment on Members reading objections, these were available to Members via the Planning Portal
- They are aware of the nearby solar farm but it is on a case by case basis and we must determine the application before us

- The flood defences are required to be maintained and are monitored by way of a condition so if there is a failure it would need to be resolved
- The Deer migration routes would be monitored by way of revised condition 12
- Energy storage capacity of batteries has been covered in the report
- The developers would need to clarify what operations would be happening at night and what happens when the panels are not generating solar energy
- The specific benefits of energy to 10k homes is dependant on the range of the installation
- The fire service was not consulted on any potential fire hazard as they are not a statutory consultee but they would be consulted as part of a building regulations approval
- Forced labour was not a planning issue and we cannot impose a condition for non planning matters
- Landscaping has been dealt with in additional condition 22
- Soil degradation and decommissioning needs to be done with care and is covered by condition 4 and does not mean that it will refer to a brown field site in the future
- Fixture and fittings must be removed once operations on site ceases
- There is no a condition for employment opportunities as such a condition would not pass the 6 tests

The Officer then reminded Members of the application by way of a presentation which highlighted the site location plan, revised site plan, photographs of various locations around the site and additional viewpoints.

In response to Members questions about the District being close to saturated with solar panels the Officer explained there was no cumulative impact of a number of sites and that each application had to be determined in its own right.

Consideration was given to:

- Members concerns with who would monitor all the conditions;
- Members concerns with who would compensate people living nearby;
- There was no upper limit quota prescribed by the Government for the number of solar panels installed in Devon;
- Members concerns with how long the batteries lasted and the lifetime of products was not known;
- Members concerns that there were too many conditions which required further LPA approval and that Councillors should have input in agreeing the final finishes
- The views of the objector who stated that Members could refuse the application on local landscape, substantial harm to listed buildings, loss of agricultural land, limited information of storage capacity and no lifecycle analysis had been provided;
- The views of the agent who stated that the proposed development was acceptable to the local plan and planning policies and that it aligned to the Council's commitment to Carbon reduction. The site would still remain in agricultural use and would provide green electricity for 10k homes within the District

- The views of some Members that the Council had made a commitment to its residents that it would sign up to Climate Change and reduce dependence on fossil fuels. Schemes like this would benefit our children and grandchildren;
- The views of some Members that agricultural roofs should be utilised first;
- The views of some Members that the site was rambling, was close to another solar farm application and it was oversized;

It was therefore **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 (amended when the minutes were brought back to the Planning Committee on 8 September 2021, the amendment to this minute was initialled by the Chairman)

(Proposed by Cllr C J Eginton and seconded by Cllr B G J Warren)

**Reason for the decision** – No decision was made the decision was deferred for an implications report.

Notes:

- i.) Cllrs F J Colthorpe, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal , B Holdman, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had been contacted by objectors;
- ii.) Cllrs Mrs F J Colthorpe, E J Berry and P J Heal requested that their vote against the decision be recorded;
- iii.) Dr Philip Bratby spoke as the objector;
- iv.) Mark Herbert spoke as the agent;
- v.) The following late information was provided:

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 & Tye Farm Langford.

14th July 21

UPDATE SHEET LIST OF CONDITIONS FOR LANGFORD SOLAR FARM

Subject to the following 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 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

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 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.

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 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.

11. No development shall take place 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 7th/8th century iron furnace has been submitted to and approved 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 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 BS5839: 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 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 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;

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:

- a) Retained Ecological and Landscape features
- b) Proposed habitats Ecological and Landscape Features
- c) Habitats and Landscape Management Measures
- d) Monitoring and Review of Plan

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

#### 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 National Planning Policy Framework.
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.
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
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

## 50 MAJOR APPLICATIONS WITH NO DECISION (5.23.14)

The Committee had before it, and **NOTED**, a list \* of major applications with no decision.

Note: \*List previously circulated; copy attached to the minutes

(The meeting ended at 8.00 pm)

**CHAIRMAN**

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