



## Planning Committee

Wednesday, 22 November 2023 at 2.15 pm  
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting  
Wednesday, 13 December 2023 at 2.15 pm

**PLEASE NOTE:** - this meeting will take place at Phoenix House and members of the Public and Press are able to attend via Microsoft Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

**The meeting will be hybrid and an audio recording made and published on the website after the meeting**

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Meeting ID: 317 515 525 384  
Passcode: z8pVDU

**A MEETING of the PLANNING COMMITTEE** will be held in the Phoenix Chambers, Phoenix House, Tiverton on Wednesday, 22 November 2023 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 13 December 2023 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

### **STEPHEN WALFORD**

Chief Executive  
14 November 2023

**Councillors:** S J Clist, G Cochran (Vice Chairman), F J Colthorpe, L J Cruwys (Chairman), G Duchesne, R Gilmour, B Holdman, M Jenkins, F W Letch, N Letch and M Farrell

## A G E N D A

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

- 1     **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of substitute.
  
- 2     **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.
  
- 3     **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**  
To record any interests on agenda matters.
  
- 4     **MINUTES OF THE PREVIOUS MEETING** *(Pages 5 - 14)*  
To consider whether to approve the minutes as a correct record of the meeting held on 8<sup>th</sup> November 2023.
  
- 5     **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
  
- 6     **WITHDRAWALS FROM THE AGENDA**  
To report any items withdrawn from the agenda.
  
- 7     **THE PLANS LIST** *(Pages 15 - 106)*  
To consider the planning applications contained in the list.
  
- 8     **TREE PRESERVATION ORDER - 23/00003/TPO - STRATHCULM ROAD, HELE, DEVON** *(Pages 107 - 112)*  
To receive a report of the Arboriculture Officer regarding this Tree Preservation Order.
  
- 9     **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 113 - 114)*  
To receive a list of major applications and potential site visits.
  
- 10    **APPEAL DECISIONS** *(Pages 115 - 116)*  
To receive a list of recent appeal decisions.
  
- 11    **PERFORMANCE DASHBOARD**  
The Corporate Performance and Improvement Manager to provide

Members with an update on the Performance Dashboard.

### Meeting Information

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Teams.

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. You must provide copies of questions to be asked no later than 4pm on the day before the meeting. Please refer to the Planning Committee Procedure [Planning Committee Procedure \(middevon.gov.uk\)](#). This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

Please note that a reasonable amount of hardcopies at the meeting will be available, however this is a limited number. If you are attending the meeting and would like a hardcopy of the agenda we encourage that you notify Democratic Services in advance of the meeting to ensure that a hardcopy is available. Otherwise, copies of the agenda can be found on our website.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Angie Howell on:

Tel: 01884 234251

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

Public Wi-Fi is available in all meeting rooms.

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**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 8 November 2023 at 2.15 pm

**Present**

**Councillors**

L J Cruwys (Chairman)  
G Cochran (Vice Chairman), S J Clist,  
F J Colthorpe, G Duchesne, R Gilmour,  
B Holdman, M Jenkins, F W Letch and  
N Letch, S Robinson

**Apologies**

**Councillor(s)**

M Farrell

**Also Present**

**Councillor(s)**

D Broom, G Czapiewski, S Keable, J Lock,  
G Westcott and D Wulff

**Also Present**

**Councillor(s)  
online**

J Buczkowski, M Farrell, A Glover

**Present**

**Officers:**

Maria De Leburne (District Solicitor and  
Monitoring Officer), Richard Marsh (Director  
of Place), Dean Emery (Corporate  
Manager), Angharad Williams (Development  
Management Manager), Adrian Devereaux  
(Area Team Leader), Daniel Sims (Planning  
Officer), Joanne Pope (Commercial Team  
Leader Public Health), Janet Wallace  
(Public Health), Angie Howell (Democratic  
Services Officer) and Sarah Lees  
(Democratic Services Officer)

**43 APOLOGIES AND SUBSTITUTE MEMBERS (03:50)**

Apologies were received from Cllr M Farrell who was substituted by Cllr S Robinson.

**44 PUBLIC QUESTION TIME (04:20)**

All public questions received referred to Application 22/00907/FULL – Retention of disused quarry for use as two firing ranges at Devon and Cornwall Constabulary, Pondground Quarry, Holcombe Rogus

## Robert West

First question: as part of the 2004 Application, Devon and Cornwall state that the site will be used once a fortnight. Are you aware of this, and if so, do you consider “historical use” just that, or rather 70 days, which increase occurred following cessation of Planning Permission?

Second question: do you have confidence in the guidance given to you by the EHO relating to noise and its impact?

- Your decision must be based on Planning issues
- To quote from the DEFRA Noise Policy Statement:
  - ..... noise has no adverse effect so long as the exposure does not cause any change in behaviour, attitude or other physiological responses of those affected by it..... increasing noise exposure will at some point cause the ‘significant observed adverse effect’ level boundary to be crossed and result in a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present
- Are you confident that the (brief) visits made by the EHO to site reflect actual usage of site over a prolonged period?
- Are you confident that the visits made by the EHO to site, and the judgements made subsequently, objectively identify:
  - actual live firing volume and duration (the EHO observations conflict with the experience of local residents)
  - any possible “adverse affects and material changes of behaviour” in the case of local residents (and animals)

## Alison Hill

I would like to ask the Committee if you are confident that the CIEH guidelines really do not apply in this case, as directed by the EHO and advised in the Case Officer’s report, when the two reports from the acoustic experts provided by the objectors (Parker Jones and LF Acoustics) say completely the contrary. Furthermore are you aware that there is widespread evidence that other planning authorities have used the CIEH guidelines in determining similar cases as they are considered to be the nearest applicable standard for firing ranges.

Are you confident that you have been presented with a fair, balanced and unbiased noise assessment? The Case Officer’s report includes approximately 350 lines from the EHO’s opinions on the impact of the shooting noise and criticisms of the objector’s noise reports but does not include ANY extracts from the Parker Jones or LF Acoustics reports despite them being qualified acoustics experts who challenge the EHOs opinions on many grounds.

As to the noise report from Acoustic Consultants Limited provided by the applicant, which says the CIEH guidelines don’t apply in the Pondground application, are you aware that these same experts specifically used the CIEH guidelines in assessing another application for a firing range in a disused quarry?

No mention is made of this contradiction in the Case Officer's Report despite it being raised in a letter dated 20<sup>th</sup> September 2023 from LF acoustics on behalf of the objectors.

In summary, do you back the opinions of the EHO which are almost exclusively subjective with regard to the impact of the shooting noise referring to it variously as distant pops, like a burst of exploding fireworks, no worse than a human shouting or a car revving close by, OR will you rely on the assessment of noise readings by two qualified acoustics experts who agree that the CIEH guidelines are most relevant and on that basis there is a significant adverse impact created by the Pondground shooting?

Corine Hancock

Why were the public not allowed on the arranged site visits?

Do you feel the site is secure and will stop kids from entering?

Why did the police firing range not show up on anyone's house searches when purchasing their houses?

Why have the police had a full day to talk to the committee and the community have only got three minutes?

How do you suppose I carry on running my Holiday Let business with the sound of firing going on all day long?

Why is this not been considered as a new application?

James Dexter

This concerns the firing range application. Is the committee fully aware that from 2012 to 2014 when permission was in place, the average number of bullets fired on site was 14,665 per calendar year. From 2015 to 2021 after permission had lapsed, the average number of bullets rose to 51,726 per year. In the calendar year of 2021 the police's own shooting records show that 113,730 bullets were fired. Therefore any condition that only specifies a number of days of use is not sufficient in mitigating the impact. For example, these same records show that in 2015 the Marines were on site for only 11 days and yet they managed to fire 47,900 bullets. Can the committee be fully satisfied that a mere restriction on the number of days would mitigate the harm?

Emma Ball

Are the committee satisfied that the condition relating to security fencing would meet the tests as such a fence would potentially be greater than permitted development rights and would require consultation upon.

Ruth O'Brien

Are the committee fully informed of their duty to take the best interests of the children as a primary consideration? Have the officers undertaken the proper assessment of this important legal consideration?

Juliette Durance

In light of the advice received from Historic England and having listened to the recorded evidence of the shooting noise impact on the setting at Greenham Barton, listed Grade 1 and therefore of exceptional special interest, what course of action do the Committee propose to take, especially since the applicant has said it is not possible to take any measures reduce the noise levels?

Robert Chislett

Are the committee aware that the local planning authority granted permission for a tourism use next to the site during the period operating unlawfully and that paragraph 187 of the National planning policy framework states “existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established?” Are they fully aware that this would not include unlawful uses?

Lance Kennedy

I am a resident and rate payer of the Cranmore ward and living on the canal a regular user of the same.

Are the committee aware of the importance of all weather training when carrying out the duties of a firearms officer, I myself used the range in question on its opening day 45 years ago?

Are the committee further aware that the weapons in use then were by design, as open chamber weapons louder than their modern closed chamber counterparts in continuance of the weapons use is the committee aware that during the early period of training it was a requirement to be ambidextrous having to draw aim and fire six rounds with the strong hand, reload with four rounds and use the weak hand in under 20 seconds this was followed by quiet periods of evaluation?

Are the committee aware of the need to preserve proficiency in both weapon use and split second decision making under conditions of stress created by the varying climate of outdoor use combined with indoor training. A fact I was grateful for when faced with that split second decision on a dark night many years ago?

Will the committee consider the impact of a controlled use environment of say 1000hrs to 1600hrs on three days a week at approved times of the year as opposed to a working quarry should the presented opportunity present itself?

The Chair advised that the questions would be answered during the application.

**45 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (28:03)**

Members were reminded of the need to declare any personal or pecuniary interests where appropriate.

Cllr G Cochran - 22/00907/FULL declared that he was a retired Police Officer for Devon and Cornwall Police and was a former armed services member and had responsibility in the past for the installation and maintenance of MOD rifle ranges.



Cllr F J Colthorpe - 22/00907/FULL declared she had received various correspondence.

Cllr F Letch 22/00907/FULL declared he was a member of the Devon Wildlife Trust.

Cllr Clist declared that Plan 3 - 23/01255/LBC fell into his portfolio position although he had no involvement regarding this and that he had also received emails and correspondence regarding Application No. 22/00907/FULL.

Cllr G Duchesne - 22/00907/FULL declared she was a member of the Grand Western Canal Joint Advisory Committee.  
She was also a member of the Devon Wildlife Trust.

Cllr R Gilmore - 22/00907/FULL declared she had received correspondence.

Cllr L Cruwys 22/00907/FULL declared he had received mail and was also the Chairman of the Grand Western Canal Joint Advisory Committee.

#### **46 MINUTES OF THE PREVIOUS MEETING (31:05)**

The minutes of the previous meeting held on 27 September 2023 were agreed as a true record and duly signed by the Chairman.

#### **47 CHAIRMAN'S ANNOUNCEMENTS (31:37)**

The Chairman reminded all members of the Planning Training taking place on 14 November at 2.00pm.

#### **48 MEETING MANAGEMENT (32:05)**

The Chair announced that he would be discussing Plan 4 – (22/00907/FULL – Retention of disused quarry for use as two firing ranges at Devon and Cornwall Constabulary, Pondground Quarry, Holcombe Rogus) as the first item on the Plans List.

#### **49 WITHDRAWALS FROM THE AGENDA (32:21)**

There were no withdrawals from the Plans List.

#### **50 THE PLANS LIST (32:31)**

The Committee considered the application on the \*Plans List.

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

- a. Application 22/00907/FULL - Retention of disused quarry for use as two firing ranges at Devon & Cornwall Constabulary, Pondground Quarry, Holcombe Rogus.

The Area Team Leader outlined the contents of the report by way of a presentation which highlighted the following:-

- The site comprised two firing ranges and associated welfare buildings.
- That shooting restrictions had been put in place.
- The site would be used by Devon and Cornwall Police for the training of firearms officers to supplement their main shooting range in Exeter.
- The applicant had instructed an acoustic consultant to measure noise and the Public Health Team had recommended a Noise Management Plan which was submitted as part of the application. On review of this, the Public Health Team requested that the number of days shooting be reduced from the initial proposal of 141 days down to 70 days.
- A Members site visit had taken place in September to look at the shooting range and to experience the noise.
- The planning permission was temporary for seven years.
- Concerns had been received regarding the impacts of heritage assets. However the Conservation Officer had commented that it was less than substantial harm to the setting of nearby heritage assets and considered that public benefits outweighed the harm.
- The Local Highways Authority had raised no objections to the use of the site.
- In light of concerns raised regarding site security the applicant had confirmed that they would be happy to install further security fencing and no shooting would occur until this had been installed.
- The police were happy to enhance their communication with the Parish and would seek to provide a Liaison Officer to work with the school.

In response to the public questions the Area Team Leader answered as follows:-

#### Robert West

Answer to Q1 - The earlier planning permissions were a material consideration. There were no conditions restricting shooting times in the earlier planning permissions and the reference made to once a fortnight was in response to a question on the application form for the portable welfare building relating to employment. The full response was N.A. Site will be visited by 20-25 officers on average once a fortnight. There were no times/days shooting listed on the application form with no restrictions placed in the planning permission.

Answer to Q2 - Yes we have confidence with the Public Health Officer in dealing with this matter. They are a professional and an employee of the Council.

#### Alison Hill

Answer - This question relates to noise and how it should be measured. The Public Health Officer is in attendance who I will pass over to comment. However with respect to the reference made to how Acoustic Consultants Ltd (ACL) responded to a nearby application, it has been confirmed that their 2012 report was for a rifle range for recreation and teaching and was a planning application for formal use. In this report ACL referred to the CIEH guidance although did note that it was not specifically for this purpose and identified differences between the scheme and clay target shooting.

Therefore in their opinion this is not a comparable site to Pondground and the use of a specific guidance document on one site does not invalidate the conclusions drawn on another.

### Corin Hancock

Answer to Q1 - The arranged site visit on the 5<sup>th</sup> September 2023 was for a Committee site visit to enable Members to fully understand the use. The earlier site visit in August 2022 was arranged for the benefit of Council Officers to fully understand the proposals which included Ward Members and Members of the Parish Council being invited. Some residents were also in attendance on the day.

Answer to Q2 - There is a condition recommended for security fencing.

Answer to Q3 - This would be a conveyancing matter rather than planning.

Answer to Q4 - It is committee procedure in respect to the time allowed to speak. It was also a Committee site visit.

Answer to Q5 - It would not be all day long, with days and hours controlled through planning condition.

Answer to Q6 - It is a new application. The application has been made on the basis of a retention of use as the use has been carried out on site since 1978 with earlier planning permissions being material planning considerations.

### James Dexter

Answer - I would first note that in addition to the condition outlining the Noise Management Plan requirements setting hours and days available for shooting, there is a condition which restricts the use only for Devon and Cornwall Police. Within the report the numbers of rounds shot are outlined and Members will have noted that on the Member site visit, 1250 rounds were shot by the Police.

### Emma Bell

Answer - The matter of the security fence is outlined within the officer report and a query over the use of a condition to finalise details was addressed in the response to the Barrister Opinion, point SC12 in Appendix 1, page 103. Whilst permitted development is possible for enclosures of 2m in height where not adjacent to a highway, in respect to security fences, the applicant has confirmed that they are committed to provide these within the submitted information and approval of final details are possible through this application. Conditions for enclosures/boundary treatments are common and accepted within the wider planning context. The condition imposed would ensure further security fencing is installed to address concerns raised through the planning process of the site being too accessible.

### Ruth O'Brien

Answer - The matter of impact of noise on residents which includes children has been addressed within the committee report and in respect to impact on children at the primary school, this has also been addressed in the response to the Barrister's Opinion at SC 8 and SC9 on Pages 101 and 102. As noted in the responses from officers, the matter has been assessed.

### Juliette Durance

Answer - This question appears to be directed to Members as to what course of action they want to take. However, I would comment that the report to Planning Committee discusses heritage matters and the duties of the Council under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant policies of the Development Plan. With respect to Greenham Barton, this is one of the three Grade I listed properties identified in the objection referred to in the update sheet. The case being whether noise intrusion from the shooting has a harmful impact affecting tranquillity. Greenham Barton is approximately 1.12km away (NE) from the site. The view of the Conservation Officer is that the proposal would not harm the setting of the Grade I listed properties given the distances involved, topography and drop off of noise from the site. As such it is not considered that there was a need to consult Historic England or amenity societies, the latter only being required to comment on demolition of listed buildings rather than setting. Historic England were made aware of this application by a third party so were formally consulted and they raised no objection to the development, rather advising that the council needed to ensure they had all the information to make an assessment to the impact which is considered to be the case.

### Robert Chislett

Answer - The matter of impact on holiday businesses in the area have been addressed within the report and the response to the Barrister Opinion within Appendix 1. It is noted that the last planning permission lapsed in 2014 but as demonstrated through the figures provided, shooting has continued throughout until 2022 with the use of Pondground Quarry as two firing ranges being historic, benefiting previously from 5 earlier planning permissions. The use outlined and the recommended conditions including Noise Management Plan are considered to prevent any unreasonable restrictions being placed on existing businesses.

### Lance Kennedy

Answer - I note the comment from Lance Kennedy and would advise that the need for this use is contained within the report and clearly demonstrated, hence the recommendation to support.

Consideration was given to:-

- Noise levels and that this could be dealt with by Environmental Health if residents were being affected by the noise levels if the application was approved.
- The difficulty with placing a security fence around the quarry due to the steep topography of the site and its constraints of the quarry.

- The mental health of children attending local schools.
- The impact of the designated listed heritage sites.

A proposal to approve the officer's recommendation was not supported.

It was therefore **RESOLVED** that planning permission be refused.

(Proposed by Cllr S Clist and seconded by Cllr R Gilmour)

Reason for refusal:-

1. The impact of the proposal on amenity of the existing residents within the settlement of Holcombe Rogus and neighbouring residents, including the impact to health and safety of the public given the site is not secured due to the steep topography of the site and its constraints. The proposal is therefore not in accordance with the Mid Devon Local Plan policies DM1 and DM4.
2. The impact of the proposal results in harm to the tranquillity of the open countryside experienced in addition to the impact on the harm of the designated listed heritage assets within the area as a result of the noise emitted by the proposed use of the site. The proposal is therefore not in accordance with the Mid Devon Local Plan policies S1, S9, DM1, DM4 and DM25.

Notes:-

- (i) Emma Forward spoke as the objector.
  - (ii) Sergeant Iain Freestone spoke as the applicant.
  - (iii) Cllr F Freeman spoke on behalf of the Parish Council.
  - (iv) Cllr J Lock and Cllr G Westcott spoke as Ward Members.
  - (v) Cllr G Cochran, Cllr F J Colthorpe, Cllr L Cruwys and Cllr F Letch requested that their votes against the refusal be recorded.
- b. Application 23/00711/HOUSE - Removal of outbuilding and retention of a replacement garden structure at 7 Silver Street, Thorverton, Exeter.
  - c. Application 23/01166/LBC - Listed Building Consent for the removal of outbuilding at 7 Silver Street, Thorverton, Exeter.

The Planning Officer outlined the contents of the report by way of a presentation which highlighted the following:-

- The proposal was for listed building consent for the removal of outbuildings to the rear garden.
- This would also include removal of the existing structure as this abutted the listed curtilage wall.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr S Clist and Seconded by Cllr R Gilmour)

Reason for the Decision as set out in the report.

Notes:-

- (i) Cllr F J Colthorpe declared that the applicant was a Councillor and that she was aware of this application.
- d. Application 23/01255/LBC - Listed Building Consent for repairs to roof at 5 St Paul Street, Tiverton, Devon.

The Conservation Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- That this was a Grade II Listed Building which was owned and managed by Mid Devon District Council.
- The proposal would include the replacement of broken roof slates with new ones.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by the Chairman).

Reason for the Decision as set out in the report.

(The meeting ended at 5.30 pm)

**CHAIRMAN**

## PLANNING COMMITTEE AGENDA - 22nd November 2023

### Applications of a non-delegated nature

- | <u>Item No.</u> | Description  |
|-----------------|--|
| 01.             | 23/00523/HOUSE - Erection of two storey extension at 10 Willow Walk, Crediton, Devon.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions.  |
| 02.             | 23/00636/FULL - Change of use of barn to wedding/events venue and retention of access track at Land and Buildings at NGR 307827 108901, Pirzwell Ponds, Kentisbeare.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions.   |
| 03.             | 23/01141/FULL - Variation of condition 13 of planning permission 22/00868/MFUL (Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments) relating to the submission of a noise assessment at Land at NGR 299621 112764 (Red Linhay), Crown Hill, Halberton.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions. |
| 04.             | 22/02374/MFUL - Construction and operation of a solar photovoltaic (PV) farm together with associated works, equipment and infrastructure at Land at NGR 301974 110937, Dean Hill Road, Willand.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions.   |

Application No. 23/00523/HOUSE

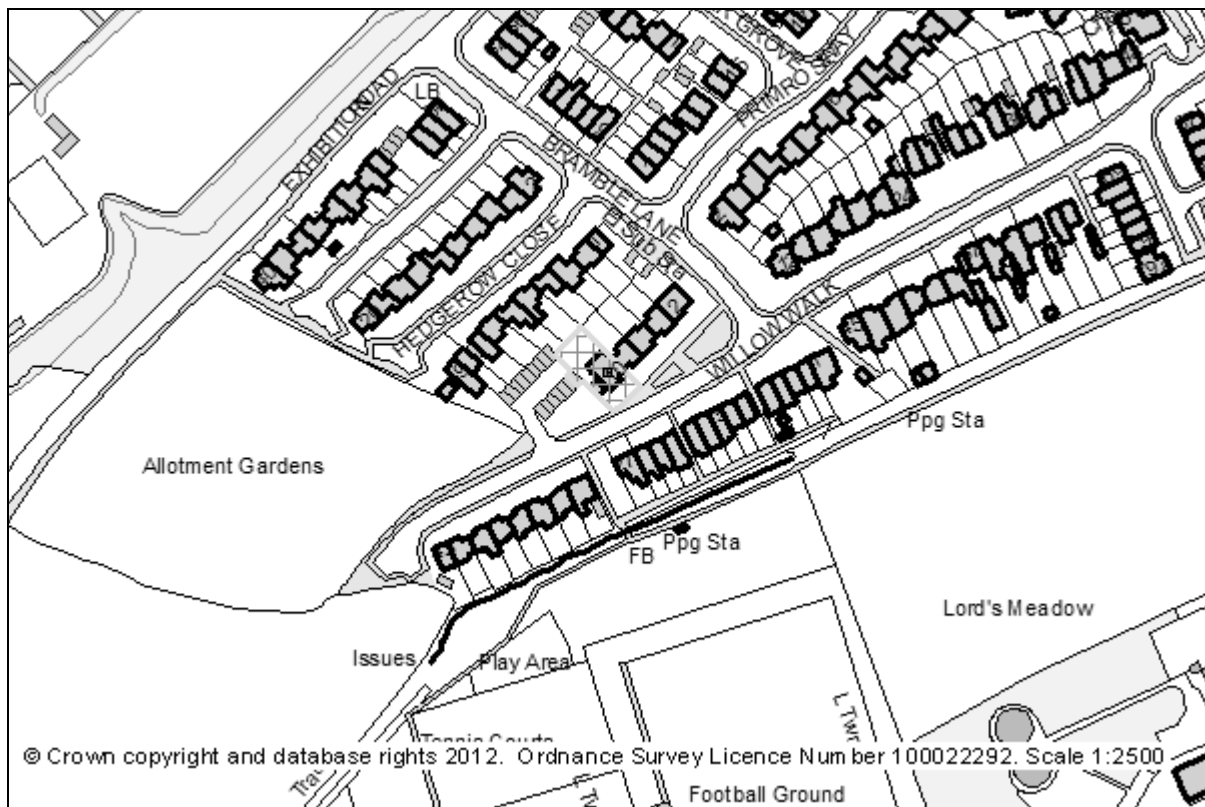
Grid Ref: 284315 : 100599

Applicant: Mr Chris Diplock

Location: 10 Willow Walk  
Crediton  
Devon  
EX17 1DD

Proposal: Erection of two storey extension

Date Valid: 7th August 2023





## **APPLICATION NO: 23/00523/HOUSE**

### **REASON FOR REFERRAL TO COMMITTEE**

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as the applicant is an employee of Mid Devon District Council.

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

The application relates to a residential property within the defined settlement of Crediton and is surrounded by residential properties. The application property is constructed of brick with concrete tiles on the roof and PVC windows and doors. There is parking provision at the front of the dwelling. The application seeks permission to erect a two-storey extension on the south western elevation with a carport below to create additional accommodation space and a covered parking area, extending 4000mm by 6780mm from the side of the property.

### **APPLICANT'S SUPPORTING INFORMATION**

- Application form
- Site location plan
- Existing and proposed floor plans
- Existing and proposed elevations
- Wildlife and Geology Trigger Table
- Ecological Impact Assessment
- Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement

### **RELEVANT PLANNING HISTORY**

89/02494/FULL - PERMIT date 22nd November 1989  
Erection of extensions

### **DEVELOPMENT PLAN POLICIES**

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

S1 - Sustainable development priorities  
S9 - Environment  
S12 - Crediton  
DM1 - High quality design  
DM5 - Parking  
DM11 - Residential extensions and ancillary development

#### **Crediton Neighbourhood Plan 2018 – 2033**

D1 - Development Principles  
D5 - Design  
T4 - Off Street Parking

## CONSULTATIONS

### **Crediton Town Council**

No objection provided the roots of the silver birch are not compromised by the construction.

### **Highway Authority**

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

### **South West Water**

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

#### **Asset Protection**

Please find attached a plan showing the approximate location of a public foul sewer in the vicinity. South West Water will need to know about any building work over or within 3 metres of a public sewer or lateral drain.

We will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.

Further information regarding South West Water's build over of sewers process can be found on our website via the following link: [www.southwestwater.co.uk/buildover](http://www.southwestwater.co.uk/buildover)

Should you require any further information, please contact our Asset Protection Team via email: [DeveloperServicesAssetProtection@southwestwater.co.uk](mailto:DeveloperServicesAssetProtection@southwestwater.co.uk)

### **Arboriculture Officer**

*Received 22<sup>nd</sup> September 2023:* If there is already hardstanding where the extension is proposed then this informs the likelihood of roots being present is low. It would still require and BS5837 survey. However, the extension appears to be right up to the crown spread. The crown spread of this tree has previously extended over the boundary. Residents may have pruned it back now to the boundary. Roughly, this time last year I received an enquiry via property services from no. 10 Willow Walk, Crediton asking if the tree can be cut back and issues with the size of tree.

My major concern is how close the extension is to the trees crown spread. No question, this would place significant pressure on the tree that would untimely result in the demise of the tree and future challenges with the replacement of the tree too in the event the tree ever had to be removed. Also, if the extension is permitted any future conflict between the tree and property the council would be required to resolve. This would result in an increased financial burden to MDDC.

*Received 19<sup>th</sup> October 2023:* I am happy with the Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement. Where the guidance is fully followed the tree shall be suitably protected during the demolition and construction phase. My previous concerns still remain that the proposal would place significant pressure on the tree and on-going cost to the council due to conflict of regrowth and the dwelling that the council will be obliged to manage. Failure to do so may result in a nuisance that may be actionable in law.

Where planning permission is given the following cond. will be required.

- Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural consultant and the site manager/foreman to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

Required prior to the commencement of development in order that the Local Planning Authority may be satisfied that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details pursuant to section 197 of the Town and Country Planning Act 1990.

- The Arboricultural Method Statement B857\_ 10\_ Willow\_ Walk\_ Crediton\_ BS5837\_ Arb\_ Report\_ 17102023) and plan (Tree Protection Plan) submitted in support of the application shall be adhered to in full, subject to the pre-arranged tree protection monitoring and site supervision, detailed in the report, by a suitably qualified tree specialist.

Required to safeguard and enhance the character and amenity of the site and locality and to avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990.

- The completed schedule of site supervision and monitoring of the arboricultural protection measures as approved in condition 5 shall be submitted for approval in writing by the Local Planning Authority within 28 days from completion of the development hereby permitted. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.

In order to ensure compliance with the tree protection and arboricultural supervision details submitted under condition 5 pursuant to section 197 of the Town and Country Planning Act 1990 in accordance.

## **REPRESENTATIONS**

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016.

No letters of representation were received the time of writing this report.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1. Policy, procedure and principle of development**
- 2. Design and neighbourhood amenity**
- 3. Ecology**

- 4. Highway safety
- 5. Other matters

## 1. Policy, procedure and principle of development

- 1.1. 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.
- 1.2. In 2020 the Council adopted the Mid Devon Local Plan 2013-2033 and this takes priority in decision making. The site is located within the Crediton settlement boundary where Policy S12 applies which identifies Crediton as one of the three market towns within Mid Devon that will continue to develop its role as a small and vibrant market town and Policy S1 recognises the need to deliver a wide choice of high quality homes. Moreover, Policy D1 of the Crediton Neighbourhood Plan supports new development provided that the development contributes to protecting and enhancing the natural, built and historic environment. More specifically, DM11 sets out the requirements of residential development which are assessed in full in Section 2 of this report.

## 2. Design and neighbourhood amenity

- 2.1. Policy DM1 requires development to be of a high quality design, showing a clear understanding of the characteristics of the site, its wider context and the surrounding area, and Policy DM11 permits extensions to existing dwellings and other ancillary development subject to the following criteria:
  - a) Respect the character, scale, setting and design of existing dwellings;
  - b) Will not result in the 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 application against the criteria is set out below:

- 2.2. The proposed development will create additional accommodation and a covered parking area, constructed of brick, concrete tiles on the roof and uPVC windows, all to match the existing dwelling. The roof height at eaves and ridge are also proposed to match the existing dwelling. It is considered that replicating the materials will continue to respect the character and design of the existing dwelling by utilising materials that remain in-keeping with the site and surrounding properties. Whilst the materials are proposed to match, the roof height at both eaves and ridge are also proposed to match the existing which gives the impression that the development will not be viewed as an extension but will reflect the terracing of the properties that are located opposite.
- 2.3. The extension will increase the footprint of the property, nonetheless, it is judged that the scale and setting of the development will respect the existing dwelling. Moreover, similar extensions and alterations can be seen on properties on Willow Walk.
- 2.4. Taking the above into account, it is considered the proposed development will respect the character, scale, setting and design of the existing dwelling, whilst

development of high quality that makes efficient and effective use of the site accords with Policy DM1 of the Mid Devon Local Plan 2013 – 2033 and Policy D5 of the Crediton Neighbourhood Plan.

- 2.5. The property has dwelling curtilage to the front, rear and side. Despite the increase in size of the property, it is not considered that the proposed development will result in the over-development of the dwelling curtilage.
- 2.6. The proposed extension will see the addition of windows to the front and rear elevations. The existing dwelling has windows present on these elevations, in addition to the side (south western) elevation, which will not be replaced on the proposed extension. It is not considered that the addition of windows will lead to any impacts of overlooking, and due to the significant distance from neighbouring properties, it is also not judged for the development to lead to impacts of overshadowing and overbearing. As such, the proposed development is considered appropriate to limit any potential impacts and is not judged to have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

### **3. Ecology**

- 3.1. An Ecological Impact Assessment has been submitted alongside the application which concludes that the development would result in the destruction of a bat roost, and as such, a European Protected Species Licence is required from Natural England.
- 3.2. Regulation 9 (5) of the Conservation of Habitats and Species Regulations 2010 (“the Regulations”) provides that, “A competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”. In exercising their duty, the Local Planning Authority should assess the proposal against the three derogation tests of the Habitats Regulations 2010, these being:
  - The development must meet a purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'
  - 'There is no satisfactory alternative'
  - The development 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'
- 3.3. In assessing these the first two of these tests, it is considered that the proposal satisfies them in that the accommodation would provide enhanced living accommodation. Additionally, there are no other satisfactory alternatives as this is a one-off proposal specific to this property. Against the third test, it is considered that the proposal will not be detrimental to the maintenance of the species as appropriate mitigation will be provided to compensate for the loss of the existing roost, thereby enabling the favourable conservation status of the species recorded to be maintained.
- 3.4. Mitigation and enhancement measures have been recommended within the assessment, and a condition shall be imposed to ensure these measures are followed, in accordance with Policy S9 of the Mid Devon Local Plan 2013 – 2033 and Policy D1 of Crediton Neighbourhood Plan.

#### **4. Highway safety**

- 4.1. Policy DM5 of the Mid Devon Local Plan 2013 – 2033 states that development must provide an appropriate level of parking. The proposed development seeks to alter the existing parking arrangement by providing a carport for one car. The existing parking at the front of the property will remain, and as such, it is considered that the addition of the carport is a positive contribution, in accordance with Policy DM5 of the Mid Devon Local Plan 2013 - 2033 and D5 of Crediton Neighbourhood Plan. The Highway Authority have no comments to make on the application.

#### **5. Other matters**

- 5.1. A Silver Birch tree is located to the south west of the property and will only be a short distance of approximately 4.5 metres from the proposed extension. Concerns have been raised by the Arboriculture Officer regarding the ongoing maintenance of this tree due to previously raised concerns of the size of the tree by the applicant, and Crediton Town Council have commented on the protection of the roots during construction.
- 5.2. As requested by the Arboriculture Officer, a BS5837 survey has been undertaken at the site which concludes that the proposal allows for the retention of the tree with negligible risk of any harm as a consequence of construction activities. Whilst it is understood that the proposed development will be in closer proximity to the tree, it is believed that adequate protection measures shall be put in place during construction, and correspondence with the agent has confirmed that the applicant will maintain the tree to their boundary to avoid ongoing nuisance. Conditions shall be imposed upon the planning permission.

#### **6. Conclusion**

- 6.1. In summary, the principle of the development is considered to be established and accords with Policy DM11 of the Mid Devon Local Plan 2013 – 2033 which refers to ancillary development. Ecology matters have been addressed and it is concluded that a European Protected Species Licence will be required prior to the development commencing. In addition, following the recommendations within the BS5837 survey, potential impacts upon the silver birch tree can be minimised. There are no concerns in terms of highway safety, and therefore, the application is recommended as approval.

#### **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.
3. The development hereby permitted shall be carried out in accordance with the recommendations detailed in Section 4 (Assessment, Recommendations and Mitigation) of the submitted Ecological Impact Assessment (prepared by Richard Green Ecology – dated July 2023) covering biodiversity enhancements, unless otherwise approved in writing by the Local Planning Authority. Any installed biodiversity enhancements shall thereafter be retained and maintained in perpetuity.

4. Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural consultant and the site manager/foreman to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the Local Planning Authority.
5. The Arboricultural Method Statement (B857\_ 10\_ Willow\_ Walk\_ Crediton\_ BS5837\_ Arb\_ Report\_ 17102023) and plan (Tree Protection Plan) submitted in support of the application shall be adhered to in full, subject to the pre-arranged tree protection monitoring and site supervision, detailed in the Tree Protection Measures Overview section of the report, by a suitably qualified tree specialist.
6. The completed schedule of site supervision and monitoring of the arboricultural protection measures as approved in condition 4 shall be submitted for approval in writing by the Local Planning Authority within 28 days from completion of the development hereby permitted. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order to ensure compliance with the approved drawings.
3. For the conservation and protection of legally protected species, in accordance with Policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033, the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).
4. Required prior to the commencement of development in order that the Local Planning Authority may be satisfied that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details pursuant to section 197 of the Town and Country Planning Act 1990.
5. To safeguard and enhance the character and amenity of the site and locality and to avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990.
6. To ensure compliance with the tree protection and arboricultural supervision details submitted under condition 4 pursuant to section 197 of the Town and Country Planning Act 1990 in accordance.

## **INFORMATIVES**

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

The proposed development has the potential to harm or destroy any legally protected bats, bat roosts and nesting birds which may be present. Please note it is illegal to disturb or cause injury to nesting birds and roosting bats, or to damage or destroy a bat roost, or to block bats' access to a roost, whether or not bats are present at the time. The application requires a licence to be obtained from Natural England before works are commenced, please see further information at <https://www.gov.uk/bats-protection-surveys-and-licences> and/or obtain specialist advice from a suitably qualified and experienced ecological surveyor.

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**

The application for a two-storey side extension is considered acceptable in policy terms. The development is considered to respect the character, scale, setting and design of the existing property and has been designed to use high quality materials to minimise its impact upon the external appearance of the dwelling. It is not considered that the proposal will result in the overdevelopment of the site or have any significant adverse impacts upon the living conditions of occupiers. In the absence of any identified harm following the adherence to the conditions, it is considered reasonable to grant planning permission, in accordance with Policies S1, S9, S12, DM1, DM5 and DM11 of the Mid Devon Local Plan 2013 – 2033 and Policies D1, D5 and T4 of the Crediton Neighbourhood Plan 2018 – 2033.

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.



Application No. 23/00636/FULL

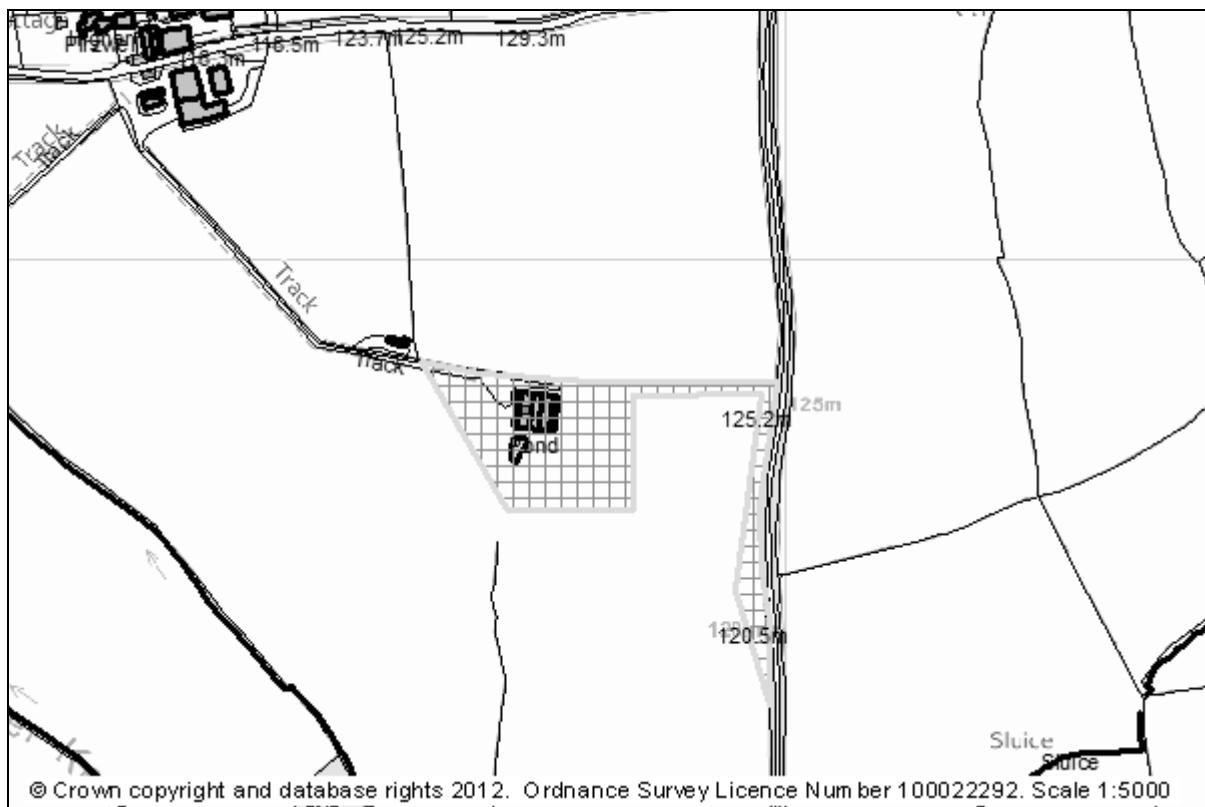
Grid Ref: 307827 : 108902

Applicant: Mr D Webber

Location: Land and Buildings at NGR 307827 108901  
Pirzwell Ponds  
Kentisbeare  
Devon

Proposal: Change of use of barn to wedding/events venue and retention of access track

Date Valid: 21st April 2023



**APPLICATION NO: 23/00636/FULL**

**Site Visit:** Yes – at pre application stage

**Decision Delayed Reason:**

Negotiations

**MEMBER CALL-IN**

The application was called in by Cllr Andrea Glover citing the reasons set out by Kentisbeare Parish Council relating to:

- Visual impacts
- Noise impacts
- Traffic impacts

**RECOMMENDATION**

Grant planning permission subject to conditions

**PROPOSED DEVELOPMENT**

The proposed development is for the change of use of barn to wedding/events venue and retention of access track at land and Buildings at NGR 307827 108901, Pirzwell Ponds, Kentisbeare. The site is in the open countryside approximately 1km north east of the village of Kentisbeare and the boarder of the Blackdown Hills Area of Outstanding Natural Beauty is approximately 300m east of the building. The site is not within a flood risk or Conservation Area and there are no nearby listed buildings. The proposal itself seeks to change the use of an existing agricultural building to a wedding and events venue. During the assessment of the application it transpired that the access track required permission and this was subsequently added to the proposal description.

**APPLICANT'S SUPPORTING INFORMATION**

In support of the application, the submission includes:  
Transport assessment, business plan, planning statement, noise assessment, structural survey, wildlife survey, photographs, site location plan, block plan, existing and proposed plans.

**RELEVANT PLANNING HISTORY**

15/01944/PNAG - PDA date 4th January 2016 Prior notification for the erection of roof to provide covered yard

**DEVELOPMENT PLAN POLICIES**

**Mid Devon Local Plan 2013 – 2033:**

- Policy S1 -Sustainable development priorities
- Policy S14 – Countryside
- Policy DM1 - High quality design
- Policy DM3 – Transport and air quality
- Policy DM5 – Parking
- Policy DM9 – Conversion of rural buildings
- Policy DM22 – Tourism and leisure development

## CONSULTATIONS

### **Economic Development, 6<sup>th</sup> June 2023:**

The proposed plan supports an existing business to diversify. The change of use is to an existing building which will not change the landscape. However, it's not clear from the business case how the car parking area will be created and what impact this may have to the landscape.

The unique selling point of the barn is the 360 degree view of the Devon countryside, with views of Dartmoor on a clear day. Depending on the weather there are options for the wedding ceremony to be catered for outside and indoor. A unique selling point will be this flexibility, along with a barn which can be dressed up or down and hired for an evening, day or weekend.

A competitor analysis has been produced within a 10 mile radius of the venue. Bridwell Park is the closest within 3 miles and the applicant has identified that they will be targeting a different segment of the wedding market and open all year in comparison. We are aware of another venue which offers wedding space within a 3 mile radius, Selgars Mill, which wasn't included. The applicant has evidenced demand from regional / national reports and some local research, stating that other venues such as Upton Barns are fully booked (weekends) for 2024 showing the need for quality venues in the area.

If the applicant is successful, we would strongly recommend they build good relationships with Mid Devon businesses in order to support our local economy e.g. local accommodation providers, catering, entertainment, florists, transport etc.

To conclude, Economic Development do not have any objections.

### **Blackdown Hills AONB, 23<sup>rd</sup> May 2023:**

Although this site is outside the AONB, the open and generally undeveloped countryside is seen and experienced alongside the AONB and contributes much to its setting; as such it would be appropriate for any development at this elevated and isolated site to be assessed in relation to the AONB and its special qualities as well as other considerations.

The Blackdown Hills AONB Management Plan 2019-24 is the agreed policy framework for conserving and enhancing the AONB and seeks to ensure that all development affecting the AONB is of the highest quality. It contains the following policies which reiterates this point and are pertinent to this proposal:

#### Landscape character:

LC3 Promote high levels of peace and tranquillity with dark night skies by minimising noise, intrusive development and light pollution

LC5 The character of skylines and open views into, within and out of the AONB will be protected

LC6 The deeply rural setting of much of the land adjoining the AONB boundary forms an essential setting for the AONB and care will be taken to maintain its quality and character

#### Planning and development

PD2 All necessary development affecting the AONB will conserve and enhance natural beauty and special qualities by:

- Respecting landscape character, settlement patterns and local character of the built environment,
- Being sensitively sited and of appropriate scale,

- Reinforcing local distinctiveness, and
- Seeking to protect and enhance natural features and biodiversity

The primary objective of AONB designation is to conserve and enhance natural beauty; one of the reasons for the designation of the Blackdown Hills AONB is that the area has retained a sense of remoteness and is largely unspoilt by modern development. The special qualities of the AONB include its relative remoteness and tranquillity, and the Planning and Development section of the AONB Management Plan notes that attention should be given to noise and activity arising from developments together with lighting to avoid having an adverse impact on the area's tranquillity and dark skies.

As such the AONB Partnership believes that any development proposal in an isolated location requires very careful consideration of its impact on the special qualities, visual amenity and local landscape character of the AONB in order to conserve and enhance the natural beauty of the area. These considerations are applicable outside the boundary as well as within.

From what I have seen it is unfortunate that the original building was permitted in this location in the past, however that should not lead to a presumption that further/alternative development would be acceptable in this prominent position within the setting of the AONB.

#### **Public Health, 10<sup>th</sup> May 2023:**

We have considered the application and have the following comments:

1. Noise. A comprehensive report has been submitted by Clarke Saunders who have used standard Music Noise Level criteria in order to estimate whether off-site residents will be affected by noise. They have used a typical rural background noise level of 25-30dB as an assessment criteria and we would advise that in these very quiet rural areas at night, the background noise level might well be somewhat less than this (22-25dBa L90 15 mins). We agree with the assumption that very loud music can be somewhat self controlling as it actually interferes with the event itself, preventing conversation between guests. This is particularly true in a venue such as this which has no break out areas. However, in reality what is likely to happen is that people will congregate outside in order to seek quieter areas and therefore the doors will be open all the time. Therefore any assessments must assume that the doors are open. As this is a basic structure this will be required anyway in order to ventilate the room during warmer months. The building structure itself is uninsulated and therefore will afford little noise insulation.

A noise limiter will be required and the use of this must be a requirement for any visiting music providers. It is therefore unlikely that live amplified music will be possible as most live bands are not willing to use the noise limiter.

The conclusion of the report is that music noise and people noise will be audible at nearby residences, particularly any that are downwind during the event (most likely those to the north west of the site). In our experience loud music from rural venues can actually be clearly audible up to 1 mile away if not controlled. This is particularly true of venues on raised ground with no intervening sound absorbing landscapes. The writer also recommends that a noise management plan is prepared and agreed with the local authority.

We agree with this recommendation and, as noise is a fundamental element of this application which could lead to refusal, we recommend that this Noise Management Plan is prepared and agreed prior to determination of the application. The reason for this is that it is clear that music noise will be audible and that the building itself affords little or no noise insulation properties. We would recommend that at least the following elements are included in the plan:

1. Number of events each year and days of the week available to clients
2. Timings (music to finish at 11pm, not later)
3. Site Music Noise Level and arrangements for measuring it
4. The provision of an integrated sound system and/or noise limiter
5. A commitment to no live amplified music
6. A commitment to no music outside
7. Arrangements for advertising events
8. Complaints procedure

2. Foul drainage. The applicant advises that portaloos will be provided for events so no permanent provision is intended.

3. Catering and food hygiene. The applicant advises that external caterers will be provided, presumably in their own mobile units. The applicant must ensure that all food businesses are registered and have been inspected by their home authority for food hygiene arrangements.

4. Licensing. The applicant must contact the licensing team in the public health section of MDDC in order to ensure that the correct licence is applied for and acquired before any events take place.

We would be pleased to comment on the draft Noise Management Plan in due course. In the absence of this plan we would not support approval of this application as it stands.

**Public Health, 21<sup>st</sup> August 2023:**

We have considered the revised noise management plan which has been amended following discussions. The important amendments are that the music noise level before 11pm has been set to 85dB, and after 11pm no music noise shall be audible beyond the site boundary. In addition any band or DJ requiring amplification must utilise an integrated sound system and noise limiter set to achieve the 85dB limit or lower. Since these amendments have been made we no longer object to this application as we cannot anticipate that there will be unacceptable noise levels at any residential properties in the vicinity. We would add that, should justified noise complaints be received in the future, the issue should be raised with the public health team who will investigate appropriately.

**Highway Authority, 18<sup>th</sup> May 2023:**

The site is accessed off an unclassified County Route which is restricted to 60 MPH although observed traffic speeds are considerably lower.

The number of personal injury collisions which have been reported to the Police in this area between 01/01/2017 and 31/12/2021 is none.

It is considered that the proposed access can be achieved with suitable visibility, taking into account estimated speeds at this location, it is not considered that the impact will be severe or that there will be a safety concern with this access.

The lanes in this area are typical Devon lanes that are narrow, no street lighting and no footways. I did note when visiting the site there are some passing places albeit not many. All trips to the site would be made by car.

The number of wedding proposed in this application is possibly 25 per year, and the maximum guest would 103. If these figure were conditioned then the number of trips this could create would not have a severe impact on the highway network.

The parking they have proposed on site does not look to be adequate for the number of guest they are suggesting, therefore the applicant should submit further plans to provide car parking for all the guests.

Once this information has been received then the County Highway Authority can put forward a recommendation

**Highway Authority, 5<sup>th</sup> June 2023:**

If you were to condition the numbers of guests to 103 as per my recommendation then the number of car parking spaces would need to be in the region of 40 spaces for the guest plus all the staff required.

The parking area would require sufficient internal turning space for larger vehicles.

All this would be required to be within the red line of the application, and to provide a drawing to show how this would be achieved.

Also having relooked at the TA and speaking to an objector of this application. The assessment regards the Trip numbers attracted to the site have been compared with existing permitted use which is the normal scenario, although it does not mention the existing use has been carried out from a different access to the north of the new access and therefore on a different road. So the TA should address this and ensure this the outcome of the Trips and show the impact would not be severe.

The County Highway Authority would need to be re consulted if you were not considering conditioning the number of guests to this venue as part of an approval.

**Highway Authority, 18<sup>th</sup> July 2023:**

I have had a look at revised drawings, the car parking shows 44 parking spaces, which would be suitable for the guest numbers to conditioned at 103 as first suggested but not for 150 guests they have asked for.

They have also suggested that the number of weddings would be 25. Would this also be able to be conditioned?

They have not updated the TA to address the concerns in my previous email.

**Highway Authority, 5<sup>th</sup> September 2023:**

The Applicant has resubmitted a Transport Note which does not address my previous comments regards the number of trips the existing access creates at present so this can be compared to the trips the wedding venue would create. They have just stated the number of trips the farm access creates.

The Applicant has also not shown the visitor numbers would be restricted to 103 and are still looking for 120 visitors.

I would also like to see the number of events be conditioned to 25 per year.

Without this information the County Highway Authority cannot put forward a recommendation.

**Highway Authority, 19<sup>th</sup> September 2023:**

The applicant has submitted further information which addressed the Highway Authorities concerns. The applicant has also agreed to a condition of the maximum numbers of 103 guests and 25 events per year. There the County Highway Authority has no objections to this application.

**Highway Authority, 8<sup>th</sup> November 2023 (Regarding guest number condition):**

I have given this further consideration and spoken to my colleagues who have found them self in the same situation, but unfortunately none of them have been able to secure a condition on the numbers for the same reason your enforcement officer raised. I could not justify at an Appeal this being a reason for refusal. Therefore my response remains the same with no objections, just without this condition.

**Kentisbeare Parish Council, 25<sup>th</sup> May 2023:**

Kentisbeare Parish Council cannot support the application for the following reasons:

**Unauthorised and inappropriate development**

Whilst this is a 'change of use' application, there have already been significant changes made to structure and the wider site, ostensibly without planning permission and in our view unsympathetic to the local rural environment. The piggeries have metamorphosed into a 'barn'. It sits on the brow of the hillside and is timber clad, drawing a lot of attention across the Parish, in particular from residents in the neighbouring AONB communities (Blackborough etc.). There have also been significant changes to the access, the creation of parking and the backfilling of a slurry pit, changes of which seem to have proceeded without the necessary consultations/consents. As far as we are aware, no survey was conducted about impact on bats, dormice etc., and prior to the recent changes.

**Noise**

Empirical evidence already exists about the likely impact on noise because the wedding that was held last year could be heard by both immediate neighbours and further afield in Blackborough at a significant volume. The barn is a large tin box with huge doors. Regular wedding parties will have amplified music late into the evening, and given the raised location of the barn and its inherent acoustic properties, there will be very substantial noise to the immediate neighbours (both homes and an outdoor yurt business), but also offer significant impact as the sound bounces around the nearby hillsides. The applicant's noise report is unrealistic. One-off community events such as the Altitude festival are welcomed by the local community, in contrast to week-in, week-out disruption to the tranquillity of the AONB.

**Traffic**

The projection of vehicle journeys also is unrealistic for a wedding potentially catering to 150 people. This is a narrow country lane with very fleeting amounts of traffic, as modelled during the Blackborough House application. The impact of traffic on the rural community, especially around event days (potentially twice a week) will be exhausting to locals and negatively impact the environment. Existing wedding venues in the local area (e.g. Upton Barn) are much closer to existing infrastructure and better able to soak up the additional traffic that such events will generate on a regular basis.

**The holistic impact on the local community/businesses**

Rural communities are fragile ecosystems of farmers, residents and small businesses. We welcome development which seeks to build on what is here to enhance the experience for everyone. This development in contrast leverages the beautiful location for profit but in so doing threatens the sustainability of all of these stakeholder groups ' disrupting farming through traffic, creating distress for residents often elderly or with young children with noise into the night, and stopping local businesses that work sustainably with the local community from thriving (e.g. nearby fisheries and yurts businesses). We ask that sustainable development be considered along these lines, with these groups in mind.

### **DCC Minerals and Waste, 5<sup>th</sup> May 2023:**

The application site is on the edge of the Mineral Consultation Area for the sand and gravel resource, within which Policy M2 of the Devon Minerals Plan seeks to protect such resources from constraint by new development.

In the case of this site, the proposed development will be around 250m from the edge of the mineral resource, and it is considered that the nature of the development will avoid any increased constraint on the resource. Devon County Council therefore has no objection in its role of mineral planning authority.

### **REPRESENTATIONS**

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016.

A total of 45 letters of representation have been received at the time of writing this report, 1 general comment and 44 letters of objection. The comments have been received at different points in the application process and sometimes have been submitted by the same individuals but at different times in the process. The considerations raised have been summarised below:

- Traffic impacts and car parking
- Noise impacts
- Impact on local businesses and community
- Ecological/wildlife impacts
- Compliance with Policy DM9
- Visual impact including impact on the AONB
- Potentially unauthorised works on the site
- Drainage

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1. Principle of development**
- 2. Neighbourhood amenity**
- 3. Highways and parking**
- 4. Impact on AONB**
- 5. Flood risk and drainage**
- 6. Other matters**
- 7. Planning balance**

#### **1. Principle of development**

1.1. The site is not within a defined settlement and is therefore classified as being in the open countryside by the Mid Devon Local Plan (2013-2033). Policy S14 of the Mid Devon Local Plan 2013 – 2033 therefore applies which controls development in countryside locations. However, it does allow for the diversification of the rural economy.

1.2. More specifically, Policy DM9 deals with the conversion of rural buildings. However, it states that buildings should be disused and positively contributing to the area's character. The building in question is a timber clad, agricultural building sited on a rural hill-top. Whilst visible, it is not considered to detract from the landscape and appears as a fairly benign rural building. However, whilst not necessarily harmful, it could not be said that it was *positively*



contributing to the rural character of the area.

1.3. Notwithstanding this DM9 goes on to state that it will support development where:

- a) A suitable access to the building is in place or can be created without damaging the surrounding area's rural character and the road network can support the proposed use;
- b) The building can be converted without significant alteration, extension or rebuilding
- c) The design will retain the original character of the building and its surroundings; and
- d) The development will retain any nature conservation interest associated with the site or building, and provide net gains in biodiversity where possible

In terms of the above criteria, there is an existing access in place which has been suitable for agricultural uses for some time and this application seeks to regularise the access. The Highway Authority raise no objections to the application and overall it is considered suitable. Similarly, the proposal does not include significant alteration or re-building of the existing building and the design will not be altered. A structural report has been submitted which indicates that the building is suitable for conversion. Finally, an ecology survey has been submitted which concludes that no further survey work is required and the ecological impact is low. The recommendations are secured by condition.

1.4. It is considered, therefore, that the proposal meets most of the requirements of DM9 but there is some policy conflict given that the building does not positively contribute to the area's character. However, the Mid Devon Local Plan 2013 – 2033 also includes policy DM22 which refers to tourism and leisure development and sets a higher bar for development compared with DM9.

1.5. Policy DM22 states that proposals must:

- a) Respect the character and appearance of the location;
- b) Where appropriate, involve conversion or replacement of existing buildings; and
- c) Demonstrate that the need is not met by existing provision within nearby settlements.

In terms of the first of these criteria, it is considered that the proposed development respects the character and appearance of the location. There are no physical alterations proposed and the timber-clad, fairly benign building will continue to sit sufficiently comfortably in the rural landscape. The site is outside but near to the boundary of the Blackdown Hills AONB so greater consideration is given to this later in this report. Criterion B of DM22 is clearly satisfied and the Council's Economic Development Team also raise no objection with the Business Plan indicating that there is a need for this type of development in the area.

1.6. The proposed development is therefore considered to comply with DM22 of the Mid Devon Local Plan 2013 - 2033. Whilst there is some policy conflict with DM9, the majority of the policy is adhered to and it is considered that DM22 presents a higher bar for development and is more specific to the proposal in any case. It is therefore considered, on balance, that the principle of development is established.

## **2. Neighbourhood amenity**

2.1. Policy DM1 of the Mid Devon Local Plan 2013 – 2033 seeks to ensure high quality design according to a number of principles, this includes avoiding adverse neighbourhood amenity impacts. It is clear that noise impacts are a key concern of the public and there have been significant negotiations with the applicants, Local Planning Authority and Public Health around this point. The nearest residential dwelling at Pirzwell Farm is over 250m north of the

building whilst to the south, the settlement of Stoford Water is approximately 450m from the building. A Noise Assessment has been submitted with a number of revisions included in order to satisfy the concerns of Public Health. Following the latest submission, Public Health are indeed satisfied that there will not be unacceptable levels of noise coming from the development. They also note that should noise complaints be received in the future, the issue could be raised with the Public Health team who will investigate appropriately and outside of the planning process. In addition, conditions have been used to secure the noise assessment and to restrict events to 25 per year as a maximum. On balance, neighbourhood amenity is therefore considered to be suitably protected in accordance with DM1 of the Mid Devon Local Plan 2013 - 2033.

### **3. Highways and parking**

3.1. DM1 requires the creation of safe and accessible places whilst DM3 requires safe access onto the highway network and DM22 states that tourism and leisure development should avoid unacceptable traffic impacts. As such, the Highway Authority have been consulted on the application and following the submission of a Transport Statement raise no objections subject to the number of events being capped at 25 and number of guests at 103. The suggested condition capping guest numbers has been carefully considered but following discussions with the Council's Enforcement Officer and Highway Authority, it has been concluded that the condition would not be enforceable and therefore does not meet the 6 tests of planning conditions as set out in para.55 of the National Planning Policy Framework. The condition has therefore not been used, albeit the Highway Authority have confirmed in their latest comments that they still have no objections. The impact on the highway network is therefore, on balance, considered to be acceptable in accordance with DM1 and DM22.

3.2. Similarly, the application seeks to regularise the existing access which has suitably served agricultural traffic for some time and links to an existing access point. A visibility plan has been submitted setting out acceptable visibility splays and a condition has been used to ensure these are implemented prior to the first event being held on site. The access is therefore also considered to be suitably safe as required by policy DM3.

3.3. Policy DM5 refers to car parking provision and sets out required levels of car parking for different uses. It does not specifically refer to wedding or events venues but does state that there should be 1 space per 5 seats for 'indoor entertainment' venues. However, the County Highway Authority have indicated that 40 spaces would be more appropriate. In any event, 44 spaces are proposed. This meets the requirements of both DM5 and the Highway Authority and is therefore clearly sufficient.

### **4. Impact on AONB**

4.1. The site is not within the Blackdown Hills AONB but the building is approximately 300m west of the AONB boundary and as such Policy DM27 has been considered. The policy states that development proposals that impact the protected landscape must demonstrate that:

- a) Cultural heritage and the character, appearance, setting and other special qualities of the landscape will be conserved or, where possible, enhanced; and*
- b) Biodiversity will be conserved and enhanced where possible through improved linking of habitats, appropriate landscaping and habitat creation.*

4.2. The Blackdown Hills Partnership has been consulted on the application and whilst not objecting they highlight the importance of the area, citing its relative remoteness and tranquillity. They also state that the fact that the building is already in situ, does not automatically mean changes of use are acceptable. In terms of the special characteristics of remoteness and tranquillity, conditions have been used to protect the tranquillity of the area by restricting the number of events and guests at one time and by controlling any external lighting, protecting the characteristic dark skies of the area. These conditions are considered

suitable in order to protect this tranquillity and remoteness which are identified as the special qualities of the AONB. Similarly, no physical alterations are proposed and it is considered that the building sits suitably inoffensively in the landscape. However, parking and the retention of the track are included in the application. The track is rural in nature and has been in place for some years. Consideration was given by officers to suggest a planting scheme to screen the parking area. However, it was felt that the planting would disrupt an otherwise open landscape and the parking area is somewhat obscured from view by the surrounding highways in any event, largely by existing hedges, trees and the building itself from some directions. A condition has, however, been used to secure grass-crete as the car park material which will soften the overall appearance.

4.3. In terms of ecology and as alluded to in paragraph 1.3 of this report, a wildlife survey was submitted which found that the development was not expected to significantly adversely impact protected species. The recommendations have been secured by condition, however. As above, there is also a condition to control external lighting which is expected to protect both the character of the area and ecology.

4.4. Overall, taking into account the position 300m outside of the AONB, the careful use of conditions, the results of the wildlife survey and time the building has been in situ with limited visual harm, the proposed development is considered to comply with DM27 and the AONB will be suitably protected.

## **5. Flood risk and drainage**

5.1. Public comments have raised concern regarding flood risk and foul drainage. The site is within Flood Zone 1 which represents the lowest probability of sea and river flooding and is in an elevated position. The overall roof area is not increased and parking area will be permeable so there are no concerns in terms of flooding. Similarly, Public Health have raised no concerns in terms of foul drainage.

## **6. Other matters**

6.1. In addition to the matters discussed above, the public consultation has also raised concerns in relation to the impact of the development on local businesses and potential unauthorised works on the site. Firstly, in terms of impact on businesses, this was not a concern of the Council's Economic Development Team in their comments – they actually suggest the applicants work with local businesses to make the venture a success. It is also reasonable to assume that a wedding venue in the area would have a positive impact on certain businesses such as holiday accommodation businesses, for example.

6.2. Finally, the comments regarding unauthorised works have been carefully considered by officers. This resulted in the retention of the access track being added to the application as it appeared the track was unauthorised. It is clear that works have also taken place to the building with one objector alleging that it was demolished and re-built. When this was put to the applicant, they provided evidence in an email dated the 1st November 2023 to show the works that had been undertaken which largely included re-cladding the building – the central part of which was approved under application reference 15/01944/PNAG. The building does appear to follow the same form as at the time of the 2015 application and given the evidence submitted, officers are satisfied that the building was not re-built and instead the works largely amounted to re-cladding the building. Part 6, Class A of the General Permitted Development Order allows for such works to agricultural buildings subject to the works being reasonably necessary for agriculture with 'not-significant' works not requiring a prior approval application. The Order defines significant as 'any extension or alteration, as the case may be, of the building where the cubic content of the original building would be exceeded by more than 10% or the height of the building as extended or altered would exceed the height of the original building' which does not appear to be the case in this instance. Similarly, the information submitted with the applicant indicates that the works were reasonably necessary

for the agricultural goose business that was in operation at the time. It is therefore likely that the works did not require permission and the Local Planning Authority would have granted a prior notification application or full planning application for them.

## **7. Planning balance**

7.1. In summary, whilst there is some policy conflict with DM9, the principle of development is considered to be established under DM22 of the Mid Devon Local Plan 2013 - 2033 which refers to tourism and leisure development. It is considered that following the submission of a Noise Assessment and Transport Assessment, the development is acceptable in terms of neighbourhood amenity and highways impacts, with neither Public Health or the Highway Authority objecting. The Blackdown Hills AONB and ecology are also protected and there are no concerns in terms of flood risk or car parking. Officers therefore recommend approval.

## **REASON FOR APPROVAL**

The proposed change of use of barn to wedding/events venue and retention of access track at land and Buildings at NGR 307827 108901, Pirzwell Ponds, Kentisbeare is considered acceptable as a matter of principle. The proposal is for the conversion of an existing building and the need for the provision has not been met by existing businesses. There will be no significant adverse impacts upon neighbourhood amenity, flood risk, the Blackdown Hills AONB or the local road network and suitable car parking provision is provided. As such, the development complies with policies S1, S9, S14, DM1, DM3, DM5, DM22 and DM27 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

## **CONDITIONS**

1. The change of use 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.
3. The development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements of the ecological survey report undertaken by Sunflower International dated October 2022.
4. Prior to the installation of any exterior lighting on the buildings or elsewhere on the site full details including design, siting and illumination-type shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.
5. The development shall only proceed strictly in accordance with the revised Noise Management Plan undertaken by Clarke-Saunders Acoustics dated the 10<sup>th</sup> August 2023.
6. The site shall be used for no more than 25 events per calendar year. The owners/operators shall maintain an up to date register of the names and dates of all bookings taking place on site annually. The register shall be available for inspection upon the request of the Local Planning Authority.

7. The development shall only proceed strictly in accordance with the revised Transport Statement undertaken by Bellamy Transport Consultancy dated the 8<sup>th</sup> September 2023.
8. Prior to the first event being held at the venue hereby approved, the visibility splays shown on drawing no.3770/04 shall be implemented. The access and visibility splay shall be so retained for the life time of the development.
9. The parking area shall be finished with core grass filled reinforced grids as shown on the approved plans. No other material or hardstanding shall be used for the duration of the development lifespan.

### **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.
3. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
4. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) and to protect the character and amenity of the countryside and AONB.
5. In the interests of neighbourhood amenity.
6. In the interests of neighbourhood amenity.
7. In the interests of highway safety.
8. In the interests of highway safety.
9. To protect the visual amenities of the area.

### **INFORMATIVES**

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

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.

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.

Application No. 23/01141/FULL

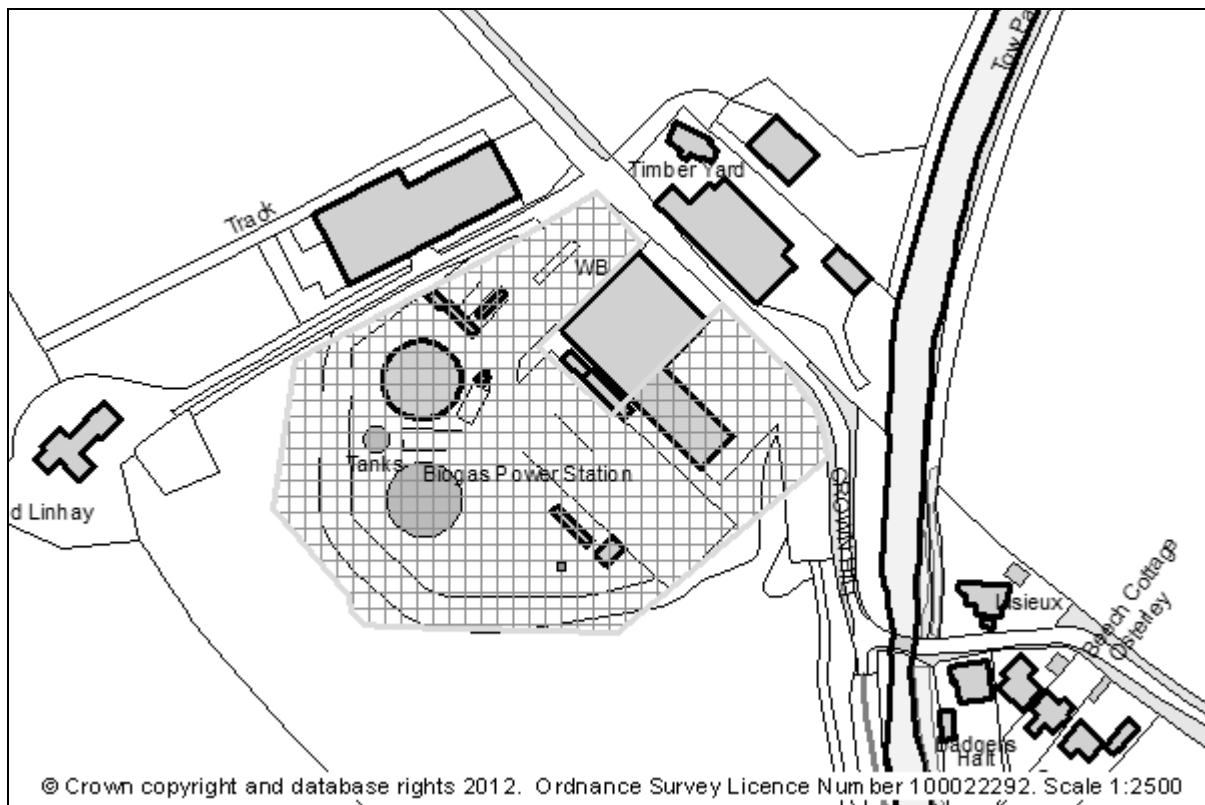
Grid Ref: 299621 : 112764

Applicant: Mr John Clapp

Location: Land at NGR 299621 112764 (Red Linhay)  
Crown Hill  
Halberton  
Devon

Proposal: Variation of condition 13 of planning permission 22/00868/MFUL (Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments) relating to the submission of a noise assessment

Date Valid: 19th July 2023



## **APPLICATION NO: 23/01141/FULL**

### **Site Visit:**

The case officer has not carried out a site visit in the determination of the application. The officer has instead considered the application using maps, photographs and other information and considers that to determine the application without a site visit would not prejudice any interested party.

### **Decision Delayed Reason:**

Negotiations and to go before the Planning Committee.

### **MEMBER CALL-IN**

The application was called in by Cllr Gwen DuChesne in order to assess the impact of the application upon noise and amenity.

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

The proposed development is for the variation of condition 13 of planning permission 22/00868/MFUL (Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments) relating to the submission of a noise assessment at Land at NGR 299621 112764 (Red Linhay), Crown Hill Halberton.

Condition 13 of permission 22/00868/MFUL requires the applicants to submit a Noise Assessment to demonstrate acceptable levels of noise from the previously approved anaerobic digester. Initially, the application sought to remove Condition 13 of permission 22/00868/MFUL entirely but through negotiations with the applicant, it has been agreed that the condition wording be varied as opposed to removing the condition entirely.

Members should be aware that there is an ongoing appeal whereby the applicants are seeking to remove Condition 13 of permission 22/00868/MFUL entirely. The Local Planning Authority's case is that the condition should not be removed but may be varied instead. For the purposes of this application, the applicants have agreed to this premise but there is some disagreement about the exact wording of the condition. At the time of writing this report, the appeal had not been determined.

### **APPLICANT'S SUPPORTING INFORMATION**

Site location plan and supporting statements.

### **RELEVANT PLANNING HISTORY**

**13/01605/MFUL** - PERMIT date 10th July 2014Erection of a 500kW anaerobic digester and associated works with 4 silage clamps - NON MATERIAL AMENDMENT GRANTED 24TH MARCH 2015

**13/01605/MFUL/NMA** - PERMIT date 24th March 2015Erection of a 500kW anaerobic digester and associated works with 4 silage clamps - Non Material Amendment to amend the route of a buried high voltage cable



**15/01034/MFUL** - PERCON date 12th July 2016Erection of a 500kW anaerobic digester and associated works with 2 silage clamps. Revised Scheme to include the change of orientation of the layout and installation of 2 driers

**16/01180/FULL** - PERCON date 9th January 2017Variation of condition 2 of planning permission 15/01034/MFUL to allow substitute plans

**17/01142/FULL** - PERCON date 5th October 2017Variation of Condition 9 of planning permission 16/01180/FULL to change sections i) and ii) of the condition with reference to the location and source of feedstock and the subsequent ultimate destination of digestate from the anaerobic digester

**19/01485/CLP** - PERMIT date 8th November 2019Certificate of lawfulness for the proposed installation of a microgeneration heat source pump

**20/00226/FULL** - PERCON date 30th March 2020Erection of extension to existing agricultural building to house 1 ground source heat pump (2 MWh) and conveyor dryer, with associated groundworks - 22/00887/NMA - GRANTED - 31.05.22

**20/01429/FULL** - PERMIT date 30th October 2020Erection of 2 cover buildings: to house existing 2 CHP units and an associated storage container and existing solid feeds hopper

**20/00226/FULL** to allow amended proposal description from 'Erection of extension to existing agricultural building to house 1 ground source heat pump (2 MWh) and conveyor dryer, with associated groundworks' to Erection of extension to existing agricultural building to house 1 ground source heat pump (2.25 MWh) and conveyor

**22/00868/MFUL** - PERCON date 8th December 2022Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments

dryer, with associated groundworks

## **DEVELOPMENT PLAN POLICIES**

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

S1 – Sustainable development  
 S9 – Environment  
 S14 – Countryside  
 DM1 – High quality design  
 DM2 – Renewable and low carbon energy  
 DM3 – Transport and air quality  
 DM4 – Pollution  
 DM20 – Agricultural development  
 DM25 – Development affecting heritage assets

## **CONSULTATIONS**

### **Environment Agency:**

If you have not received a consultation response from us within 21 days, or another agreed extension of time, please assume that the proposal falls outside the list of matters upon which we should be consulted as directed by our Development Management Consultation Checklist, and/or covered by or Flood Risk Standing Advice.

### **Highway Authority, 14<sup>th</sup> August 2022:**

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

### **Grand Western Canal Joint Advisory Committee, 31<sup>st</sup> July 2023:**

Members of the GWCJAC strongly object to this Application 23/01141/FULL which seeks to remove Condition 13 from the permission granted for Application 22/00868/MFUL. This Condition applied by Planning Officers is intended to provide protection from the Anaerobic Digester's creating excessive noise which would damage the Grand Western Canal Conservation Area's environment and the nearby residents' enjoyment of their rural

location. Its removal would take away this protection to the detriment of the Canal's green leisure amenity and the locality.

Application 17/01142/FULL had a Condition 13 which called for certain Noise limits to be adhered to after Permission was granted in October 2017. Information to discharge this Condition wasn't forthcoming by August 2018 when the Planning Officer reminded the Applicant that the requested information had not been presented. In December 2019 the Planning Officer noted that the information still had not been presented. Members feel that the Enforcement should have been the result of this failure but this has not been activated by Mid Devon District Council.

Furthermore, Application 22/00868/MFUL's Permission was also subject to a list of Conditions which included a Condition 13 requiring the Applicant to provide an additional noise assessment within a specified time frame. This information was not provided. In the absence of this assessment the Condition was not discharged and, again, Enforcement should have resulted.

It seems quite unsound and illogical for Permission to be granted for Application 23/01141/FULL when two connected previous Conditions have neither been Discharged nor Enforced.

Members are particularly concerned that, during pre-Application advice, a Planning Officer, as yet unidentified, advised the Applicant to seek removal of the Condition; a Condition that was applied by Planning Officers in the first place, presumably since it was considered to be for the welfare of the Community.

Members cannot understand the apparent reluctance of Officers to enforce their own Conditions which could raise questions about their integrity, especially since they have not justified their inaction in this respect.

### **Halberton Parish Council, 15<sup>th</sup> August 2023**

At its meeting on 8th August 2023, the Parish Council resolved to strongly object to the proposed removal of condition 13 at the Red Linhay Anaerobic Digestion Plant and to ask the Ward Councillor to call the application on the following grounds

#### **Previous Planning Decisions**

The Parish Council previously objected to this development when first approved along with large members of the community and many consultees.

MDDC made 'noise assessment' a condition of the original planning application. The Parish Council believes that the condition cannot just be removed as it is still 'necessary' for the planning permission to have been granted, and an approval of the current application is actually the grant of a new planning permission (under s. 73 TCPA).

When the applicant asked for the removal of condition 13 under application number 22/00868/MFUL, MDDC did not agree to the removal of the condition ' they required a new/revised noise assessment to be put forward within six months.

The applicant is in breach of the planning conditions given in both the original application and the more recent (December 2022) 22/00868/MFUL.

In objecting to this latest application we are now seeking the LPA to fulfil this statement and enforce the following conditions which are in breach:

- A) Condition 9 - source of feedstock and destination of digestate
- B) Condition 12 - Noise Emission Levels
- C) Condition 13 - Noise Assessment
- D) Condition 20 - Power Generation Levels

We are concerned an apparent strategy of appeasement is being adopted with the latest application being encouraged by a Planning Officer.

These conditions, which were only adopted 7 months ago after agreement between the LPA and the applicant, were forcibly argued for on behalf of the objecting public and consultees.

In objecting we are asking for MDDC to contact direct all consultees who were asked to comment on the original AD plant application along with those members of the public who previously objected. In doing so bring visibility to this proposed change and give them the opportunity to respond again. Consultees would include:

- all impacted Parishes
- Environment Agency
- Public Health Officer
- Conservation Officer
- Grand Western Canal Joint Advisory Committee
- Highways Authority

Condition 13 was agreed to protect the locality. The Environment Agency provides statutory guidance confirming AD Plants cannot operate within 200m of the nearest receptors and details the range of public health impacts. One of which is Noise and in this case we have a number of residents and users of the Grand Western Canal all within 100m. To remove this condition would be seen as incomprehensible.

We ask for the applicant to urgently comply with condition 13 and provide the required noise assessment which should have been available by the end of June and to confirm present noise levels are complying with those stipulated in condition 12. We are fully aware previous Noise Assessment reports confirmed noise levels were in contravention of the limits agreed and therefore impacting negatively on the locality and not giving the levels of protection planned. Should this still be the case then it is critical mitigation plans are immediately agreed and adopted.

Separate applications for this location, including the introduction of Ground Source Heat Pumps, have also made specific reference to sound-proofing requirements which were agreed by the LPA and the applicant. There is no evidence to confirm these have been adopted and this track record of conditions not being fulfilled is seen as a significant public health risk to the residents of Halberton.

#### Public Health

The Parish Council considers that any variation or removal of conditions, which were only updated in December 2022, would materially impact on the public health and well-being of many residents. The locality is enduring traffic volumes well in excess of projected levels with the amount of Hectares sourcing the plant and output being generated also contravening agreed condition levels. To now remove the need for further noise assessment is considered unacceptable and impact the local residents and the Grand Western Canal which is designated as a Heritage Asset and Country Park.

This plant has been the subject of ongoing public and parish feedback and we are mindful of the last Approval (22/00868/MFUL) profiled how 'failure to adhere to the details of the approved plans or to comply with the conditions constitute a contravention of the Town and Country Planning Act 1990, in respect of which enforcement action will be taken'.

#### Traffic

Failure to ensure that the plant works within the conditions set to allow MDDC to approve the facility serious impact the amount of traffic to and from the plant.

## Noise

Failure to ensure that the plant works within the conditions set to allow MDDC to approve the facility serious impact the amount of noises generated by the plant itself and agricultural and HGV vehicles travelling to/from the plant.

## Impact on a conservation area

The Grand Western Canal is an amenity enjoyed by residents of many local parishes. The impact of noise on the amenity cannot be ignored.

### **Halberton Parish Council, 17<sup>th</sup> October 2023:**

At its meeting on 10 October, the Parish Council considered the wording of this revised application. The Parish Councils opinion has been that any removal of Condition 13 would be in contravention to the original planning permission. Noise assessments were a condition of the planning permission of the Red Linhay AD Plant to protect residents and ensure that should the noise levels did not increase and that noise mitigation work was carried out to ensure that local residents were not exposed to unacceptable noise levels.

The Parish Council noted that this application is now for a variation of condition 13 which it understands would require the applicant to undertake a noise assessment within a month and, if necessary, carry out any noise mitigation work required.

Given that the Parish Council and local residents of Crown Hill and Lower Town have been seeking a noise assessment for the past five years, the Parish Council RESOLVED that provided the wording would provide a timely noise assessment with any subsequent mitigating work then it had no objection to the application.

The Parish Councils opinion is supported by the consultee comments of the Public Health Officer who indicates that the noise levels are unacceptable to local residents.

The Parish Council seeks assurances from MDDC Planning that the wording of any variation put in place by its Officers will ensure that a noise assessment takes place and that the levels set will ensure that local residents no longer have to tolerate unacceptable noise levels.

The Parish Council noted that the noise levels also affect those seeking to enjoy the Grand Western Canal.

### **Sampford Peverell Parish Council, 25<sup>th</sup> July 2023:**

Sampford Peverell Parish Council RESOLVED at its meeting on 24th July 2023 that they considered, given past planning decisions and the subsequent conditions placed on them by MDDC, that there was insufficient information on the planning portal for the Parish Council to be able to comment on this application. Clarification would be sought.

### **Sampford Peverell Parish Council, 11<sup>th</sup> October 2023:**

At its meeting on 9 October 2023, Sampford Peverell Parish Council RESOLVED that the amended description and additional information did not allay their concerns that any variation to the noise condition would result in greater output and thus more agricultural vehicles travelling through the village with the associated road safety, noise and vibration issues.

The Parish Council, therefore, RESOLVED to object to any removal or variation of the condition and its requirement for a noise assessment to take place and took note of the Public Health Officer's comments and the fact that the condition was part of the original decision notice and thus the approval of the original application.

**Tiverton Town Council, 8<sup>th</sup> August 2023:**

Condition should remain as it is important.

**Tiverton Town Council, 17<sup>th</sup> October 2023:**

Tiverton Town Council strongly objects to the removal of condition 13. We can see no material changes with this application from the many previous ones that would persuade us to change our opinion.

**Uffculme Parish Council, 11<sup>th</sup> October 2023:**

The Parish Council continues to object to this planning application, with all previous comments being relevant, and supporting the comments and objections of neighbouring Parish Councils (namely Halberton and Willand).

**Willand Parish Council, 14<sup>th</sup> August 2023:**

Willand Parish Council has considered this application. Although it is in an adjoining parish and any noise issue from the site is unlikely to affect any properties within this Parish there are issues of concern, fact and principle which the Parish Council would wish to comment on and would like taking into consideration when a final decision is being made. These issues relate to transparency, openness and factual honesty together with historic information and a need to be consistent.

The initial consultation was made on 19th July 2023 and the description of the application was given as:

Removal of condition 13 of planning permission 17/01142/FULL (Variation of Condition 9 of planning permission 16/01180/FULL to change sections i) and ii) of the condition with reference to the location and source of feedstock and the subsequent ultimate destination of digestate from the anaerobic digester) relating to the submission of a noise assessment.

The reference to the variation of Condition 9 caused concern in a number of surrounding parishes and clarification was sought as the only information on the portal was the application form and a site location plan from a 2015 application. The application form referred to preapplication advice where applicant stated that an officer had 'Encouraged to apply to remove the condition.' All other detail had been redacted and so its authenticity could not be verified. Enquiry of the case officer for more detail of officer giving advice and the full advice given has received an answer which does not answer the question asked or provide the information sought.

On the 27th July 2023 the 'Amended Description and Additional Information' notification was received and as this only deals with the 'Condition to be removed not varied' it is this matter which is addressed.

It is worth noting that under application number 15/01034/MFUL the then Condition 15 commences with '15. Once the plant is operational, the operator shall provide a further noise assessment demonstrating that the screening is adequate and provides""'. Under 16/01180/FULL this condition becomes '14. Once the plant is operational, the operator shall provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate". .'. Under 17/01142/FULL this condition becomes '13. The operator is to provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate""'.'. .

It is noted that on file is an email from a planning officer to the applicant dated 19th December 2019 in which it states: 'We still have an outstanding noise condition to discharge (Condition 13) information was submitted but it was insufficient for the needs of the condition.' The full text is on file. The only information which can be found on file which is considered relevant is a report by SLR Consulting Ltd. Dated March 2018.

Application 22/00868/MFUL sought the removal of Condition 13 and the applicant stated: 'Condition 13 is considered to be unreasonable and unenforceable. A comprehensive noise compliance assessment was prepared by SLR Consulting in March 2018. The report was commissioned by the applicant, in order to assess compliance with condition 14 of the original permission (15/01034/MFUL) and recommend any further mitigation works.'

The 22/00868/MFUL application was considered by the MDDC Planning Committee and they supported an officer recommendation to committee: 'Approval to vary Condition 13 (rather than remove) of Planning Permission 17/01142/Full to be consistent with condition 14 of previous permission 16/01180/MFUL and subject to conditions.'

The decision notice was issued on 8th December 2022 with 22 Conditions attached and Condition 13 read: '13. The operator is to provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to ensure that the typical minimum background sound level as set out in condition 12 above is not breached from the operation of the Anaerobic digester plant. This assessment must be submitted to the planning authority within 6 months from the date of this permission.'

If the applicant did not agree with that decision there was the option to appeal to the Secretary of State. The reasons for the decision and the appeal process were fully explained on the Decision Notice. No evidence is available to show that the applicant has submitted the required assessment, let alone within the time period set out in the Condition. Presumably this new application has been made to prevent any enforcement action being taken. There is no evidence available to the public as to why there has been no enforcement action on this condition, particularly in the light of the 2019 email.

We now have the benefit of a detailed and reasoned report from the Public Health Officer which clearly explains the rational behind needing this updated report to comply with Condition 13 and the final paragraph of that report states: 'On this basis we would object to the removal of this condition. It would be to the benefit of all concerned, particularly the community but also the applicant, for the check monitoring noise report to be undertaken and for any identified remedial works to be completed without delay.'

Taking all matters into account Willand Parish Council strongly recommends the refusal of this application. No evidence is available to consultees to justify the alleged change of position of officers from December 2022 and now allegedly 'encouraging' this application. The Parish Council consider that the Condition should be enforced to ensure that noise levels are acceptable to the benefit and wellbeing of the community and in particular those residents who are being affected by noise levels in the immediate vicinity.

**Willand Parish Council, 13<sup>th</sup> October 2023:**

Willand Parish sees nothing on this amendment that alters our position and our previous comments on this application are still valid.

**Conservation Officer:**

No comments received.

**Buttlereigh Parish Council:**

No comments received.

**Burlescombe Parish Council:**

No comments received.

**Cullompton Town Council:**

No comments received.

**Public Health, 4<sup>th</sup> August 2023:**

*(Summarised for this report – full comment viewable on the public portal)*

We have considered the application and have the following comments:

Planning permission 22/00868, which sought to make amendments to permission 17/01142) was approved only in December 2022 with conditions to discharge. One of those conditions was condition 13 which required further noise reports within 6 months, ie June 2023. We have not seen any recent report for comment so this has not been complied with. Condition 13 does not contradict Condition 12, and Condition 12 does correct a drafting error which had occurred in the 17/01142 permission. In the 22/00868 the wording of the conditions were carefully considered by the officers involved (including environmental health).

The phrase in condition 13 "the typical minimum background sound level as set out in condition 12" is very clear - it is a very generous 33dB which is "28 (LA90 15min) plus 5 dB exceedance".

We are sure that in this rural area the background noise level at night is less than this so the operator has already received concessions which take into account the nature of the development.

So to clarify, condition 12 sets out the daytime and night time levels not to be exceeded, and condition 13 requires an updated noise assessment which is still awaited. The 2018 predevelopment report is not sufficient to meet this and it is common for planning authorities to require post-construction noise reports in order that the operator can demonstrate compliance. Excessive noise from the plant is being reported by many residents so it is even more important that condition 13 is complied with. Once the reports have been submitted and any remedial works done then the applicant could apply for the condition to be discharged.

On this basis we would object to the removal of this condition. It would be to the benefit of all concerned, particularly the community but also the applicant, for the check monitoring noise report to be undertaken and for any identified remedial works to be completed without delay.

**Public Health, 9<sup>th</sup> August 2023:**

I have just reviewed all the objections to the 22/00868 application and those already coming in for this one. During the consideration of 22/00868 none of the comments of the residents, the parish council or ourselves were addressed by the applicant prior to the decision. The wording of Condition 13 was carefully selected in order to allow the applicant a further 6 months to address all the comments and concerns raised and to resolve the reported noise issues. All of this could already have been resolved by the applicant carrying out the required post-installation noise report and putting into place the outstanding noise mitigation measures. In reading the comments the applicant will be very aware of the noise complaints but does not appear to have taken action to identify the various sources and address the issues. As they have not done this in the last 5 years I am not confident that these matters would get resolved without Condition 13. Condition 13 is specific, time bound and very clear. The applicant's consultant has been selective in objecting to the wording by quoting only the first half of the phrase " the typical minimum background sound level as set out in condition 12 above " (my emphasis of the words left off by the noise consultant). So it really is not clear what the applicant wants to achieve that will resolve the issues reported by the community.

Therefore our original comments of 4th August stand and we strongly recommend that the applicant carries out the required noise report (and mitigation works) which would not only meet the requirements of Condition 13, but also demonstrate whether Condition 12 is

complied with. After that the most logical course of action would be for the applicant to apply for the discharge of Condition 13.

On this basis we would continue to object to the removal of Condition 13 as its requirements are specific in terms of what needs to be done, whereas Condition 12 just sets out the noise standards to be met.

**Public Health, 18<sup>th</sup> October 2023:**

We have considered the application which now seeks to vary, rather than remove, Condition 13. The new Condition 13 needs to be agreed so that the noise assessment is carried out expeditiously and any works identified as necessary are both agreed and carried out in a timely manner. The intention of this is to resolve some long standing unreasonable noise issues.

We would still maintain that this application would be a lot clearer had the new noise assessment already been carried out, as it was required to be some while ago. But in the absence of this we have reviewed the draft proposed condition which is currently:

'The operator is to provide a further noise assessment undertaken by suitably qualified professional demonstrating compliance with the limits specified in Condition 12. This assessment must be submitted to the planning authority within 1 month from the date of this permission. Where the assessment information confirms that the noise levels from the operation of the plant are above the limits specified in Condition 12 of this decision notice, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the Local Planning Authority within 3 months of the noise assessment being submitted.'

We would recommend that the wording of this condition is slightly amended to remove any ambiguity:

'The operator shall provide to the local planning authority a further noise assessment within 1 month of the date of this permission. The assessment shall be undertaken by a suitably qualified noise consultant, shall cover all site noise sources, and shall demonstrate whether the limits specified in Condition 12 are complied with. The assessment shall also include details of noise mitigation works already carried out, and of any further works necessary. Where the assessment findings show that any noise levels from the operation of the site are above the limits specified in Condition 12 of this decision notice, the operator shall, within 3 months of the noise assessment, carry out works to mitigate such effects to comply with Condition 12, details of which shall have first been submitted to and approved by the Local Planning Authority.'

**REPRESENTATIONS**

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016.

The following properties were written to:

Redland Corner Lane Halberton Tiverton Devon EX16 7AR  
59 High Street Halberton Tiverton Devon EX16 7AG  
9 Lower Close Halberton Tiverton Devon EX16 7BA  
Lower Beer Uplowman Tiverton EX16 7PF  
Green Gates Crown Hill Halberton Tiverton Devon EX16 7AY



29 High Street Halberton Tiverton EX16 7AF  
 Meadowside High Street Halberton Tiverton EX16 7AG  
 Riversmeade Crown Hill Halberton Tiverton Devon EX16 7AY  
 47 High Street Halberton EX16 7AG  
 Corners Corner Lane Halberton Tiverton EX16 7AS  
 28 Glebelands Road Tiverton EX16 4EB  
 39 High Street Halberton Tiverton Devon EX16 7AA  
 2 Lower Close Halberton Devon EX16 7BA  
 83 High Street Halberton Tiverton EX16 7AG  
 Alstree 10 Lower Town Halberton Tiverton Devon EX16 7AU  
 Lark Rise Crown Hill Halberton EX16 7AY  
 Upcott Manor Rackenford Tiverton Devon EX16 8EA  
 Campaign to Protect Rural England Popes Shillingford Tiverton EX16 7BP  
 60 High Street Halberton Tiverton Devon EX16 7AG  
 Dinhams Church Path Halberton Tiverton EX16 7AR  
 32 Pethertons Halberton Tiverton, Devon EX16 7AZ  
 Orchard Farm Tiverton EX16 4NJ  
 Barnsclose Post Hill Tiverton Devon EX16 4NG  
 Canal Cottage Crown Hill Halberton Tiverton Devon EX16 7AY  
 27 The Glebe Thorverton Exeter Devon EX5 5LS  
 Mid Devon Town & Country Show Society Ltd Building at Grid Reference 299688 112907  
 Crown Hill Halberton Tiverton Devon  
 EX16 7AY  
 Lisieux Crown Hill Halberton Tiverton Devon EX16 7AY  
 Beech Cottage Crown Hill Halberton Tiverton Devon EX16 7AY  
 Badgers Holt Crown Hill Halberton Tiverton Devon EX16 7AY  
 Crown Hill Timber Crown Hill Halberton Tiverton Devon EX16 7AY  
 Lark Rise Crown Hill Halberton Tiverton Devon EX16 7AY

A total of 10 letters of objection and 1 general comment have been received at the time of writing this report. The considerations raised are summarised below:

- Noise and nuisance impacts
- Accuracy of information submitted / amount of information submitted
- No justification for the removal of condition
- Condition should be kept but amended for clarity
- Impact on Conservation Area
- Lack of adherence to other conditions

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1. Policy and procedure**
- 2. Impact on Conservation Area**
- 3. Other matters**
- 4. Conclusion**

### **1. Policy and procedure**

1.1. The application seeks to vary Condition 13 of permission 22/00868/MFUL which required the applicants to submit a Noise Assessment in order demonstrate acceptable levels of noise from the previously approved anaerobic digester. Initially, the application sought to remove Condition 13 entirely but through negotiations with the applicant, it has been agreed that the condition wording be varied as opposed to removing it entirely. Members should be aware that there is an ongoing appeal whereby the applicants are

seeking to remove Condition 13 of permission 22/00868/MFUL entirely. The Local Planning Authority's case is that the condition should not be removed but may be varied instead. For the purposes of this application, the applicants have agreed to this premise but there is some disagreement about the exact wording of the condition. At the time of writing this report, the appeal had not been determined.

1.2. Turning to this application, Section 73 of the Town and Country Planning Act (1990) states that developers may make "applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted". Such an application has been made in this case and as such the Council may only consider the question of the conditions as opposed to the development as a whole.

1.3. Condition 13 of Permission 22/00868/MFUL reads:

*"The operator is to provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to ensure that the typical minimum background sound level as set out in condition 12 above is not breached from the operation of the Anaerobic digester plant. This assessment must be submitted to the planning authority within 6 months from the date of this permission.*

*Should this assessment identify that suitable noise mitigation has not been provided the operator shall at its expense, within 21 days or such longer period as approved by the Local Planning Authority, undertake an assessment of the noise in accordance with the requirements of the Local Planning Authority.*

*Where the assessment information confirms that the noise levels from the operation of the plant are above the limits specified in Condition 12 of this decision notice, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the Local Planning Authority."*

For reference, Condition 12 reads:

*"Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night. Daytime Noise Level 07.00am - 23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq1hr) Night-time Noise Level 23.00pm - 07.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceed the decibel level 33 dB (LA90 15min).*

*Daytime (Evening) & Night-time Noise Level 19.00pm - 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise sensitive premises exceed 55 dB(LAFmax) evening (19.00-23.00hrs) and night-time (23.00- 07.00hrs).*

*\*(From the noise data supplied) the average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance  
The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance."*

1.4. There is an error in the wording of Condition 13 as it refers to background noise levels as opposed to the required noise levels set out in Condition 12. Due to this, the Local Planning Authority recommended that the applicants submitted an application to vary the condition to correct this error. However, the applicants initially submitted the

application to remove the condition entirely. As mentioned in paragraph 1.1, subsequent negotiations have meant that the applicants agreed to change the description of this application to vary the wording of the condition rather than removing it entirely.

1.5. Paragraph 55 of the National Planning Policy Framework states that conditions should meet the following six tests:

1. Necessary
2. Relevant to planning
3. Relevant to the development
4. Enforceable
5. Precise
6. Reasonable in all other aspects

In considering the above tests and through consultations with the Council's Public Health Team, the revised wording suggested by officers is as follows:

*“The operator shall provide to the local planning authority a further noise assessment within 1 month of the date of this permission. The assessment shall be undertaken by a suitably qualified noise consultant, shall cover all site noise sources, and shall demonstrate whether the limits specified in Condition 12 are complied with. The assessment shall also include details of noise mitigation works already carried out, and of any further works necessary.”*

*Where the assessment findings show that any noise levels from the operation of the site are above the limits specified in Condition 12 of this decision notice, the operator shall, within 3 months of the noise assessment, carry out works to mitigate such effects to comply with Condition 12, details of which shall have first been submitted to and approved by the Local Planning Authority.”*

1.6. Whilst the applicant's agent has also suggested some amended wording, it is the responsibility of the Local Planning Authority to place conditions on a development where necessary. In this case, officers are satisfied that the above wording meets the 6 tests set out in para.55 of the National Planning Policy Framework and will protect neighbourhood amenity in accordance with DM1 of the Mid Devon Local Plan 2013 - 2033.

## **2. Impact on Conservation Area**

2.1. The site is adjacent to the Grand Western Conservation Area. In coming to this decision the council must be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance. Similarly, DM25 of the Mid Devon Local Plan 2013 – 2033 seeks to protect and, where possible, enhance heritage assets and their settings.

2.2. Given that the condition will be retained but re-worded, officers are satisfied that the application scheme will not detract from the special qualities of the Conservation Area in accordance with DM25 of the Mid Devon Local Plan 2013 - 2033.

## **3. Other matters**

3.1. It is noted that consultees and the public have raised concerns about the lack of adherence to other conditions on the site. Whilst this application may only consider the matter relating to the variation of Condition 13, members will note that the revised wording of this condition gives the applicants 1 month to provide the required noise

assessment. Should this not be complied with, applicants would be open to enforcement action.

#### **4. Conclusions**

4.1. Overall, it has been agreed that Condition 13 of application 22/00868/MFUL will be varied as opposed to removed completely. Officers are satisfied that the wording suggested meets the 6 tests of planning conditions and local policy. This section 73 application is also required to 'pull through' conditions from the extant permission so these are also set out below. There is no requirement for a time limit condition given works are commenced so this has been removed. Condition 13 has therefore now become Condition 12.

### **REASON FOR APPROVAL**

The proposal is for the variation of condition 13 of planning permission 22/00868/MFUL (Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments) relating to the submission of a noise assessment at Land at NGR 299621 112764 (Red Linhay), Crown Hill Halberton. The new variation of the condition is considered to adhere to the 6 tests set out in paragraph 55 of the National Planning Policy Framework. It is also considered to protect neighbourhood amenity, the Conservation Area and local road network. As such, the application complies with policies S1, S9, S14, DM1, DM2, DM3, DM4, DM20 and DM25 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

### **CONDITIONS**

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
2. The colour and finish of the building materials (including the digester dome) shall be retained in accordance with the details as submitted and approved in writing by the Local Planning Authority on 27th October 2016 pursuant to 15/01034/MFUL (Drawing nos. WIN01\_HA2\_EL\_W\_\_001, WIN01\_HA2\_EL\_S\_001, WIN01\_HA2\_EL\_E\_001, WIN01\_HA2)EL\_N\_001, WIN01\_HA2\_EL\_0\_002, WIN01\_RE\_RETAINING WALLS).
3. All works and operations shall take place in accordance with the Operational Traffic Management Plan in the agreed parameters as set out under condition 4 of 16/01180/FULL that was received March 2017. The date the plant first became operational ("Operational" shall mean the first production of electricity to be exported to the grid which has been confirmed as 1st June 2017).
4. The completed passing bay on Crown Hill is to be retained in accordance with the approved plans "The Passing Bay scale 1:250 and dated 10.02.2015; and The Passing Bay Position scale 1:250 dated 10.03.2015" as set out in 13/01605/MFUL.
5. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the liquids buffer tank and feeder hopper (triolet) serving the AD digester approved as part of this planning application.
6. All hedgerows within or on the boundary of the site located to the north west of the site and east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres. Any trees or plants die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

7. The external lighting shall be retained in accordance with details agreed under condition 4 of 16/01180/FULL received March 2017.

8. i) The feedstock and approved quantities for the anaerobic digester shall be slurry (2,000 tonnes), farmyard and chicken manure (3,000 tonnes), grass and arable crops (8,925 tonnes) only, originally sourced from the sites named in Transport Statement(s) of application 17/01142/Full (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 1-13 41.48ha, Maunders 7.71ha, Wellington 23.55ha and Blocks A 19.92ha and B 96ha and shown on plans/aerial photos, Drawing numbers 13425/T04 Revision A 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015 under application 15/01034/MFUL and Drawing 3 set out in the approved transport statement date stamped 15th August 2017 and

ii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in the Transport Statement of application 17/01142/Full Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 1-13 41.48ha, Maunders 7.71ha Blocks A 19.92ha and B 96ha only and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015 under application 15/01034/MFUL and set out in the approved transport statement date stamped 15th August 2017.

iii) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The Log book shall record name of farm, plot, supplier, number and gross and net weight of vehicles along with date and time of feedstock delivery / digestate distribution.

iv) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.

v) Records of feedstock input into the digester by weight from the hopper (triolet) shall be kept and submitted to the Local Planning authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.

9. The storage of digestate or other hazardous substances must be within the properly constructed bunded areas of sufficient capacity and containment, as approved in plan number WIN01\_Redlinhay3\_PP\_002 under application 16/01180/FULL. Such approved scheme shall be so retained.

10. The planting scheme and Bund shall be retained and fully implemented in accordance with details agreed within condition 12 under application 16/01180/FULL (Drawing no. WIN01\_RE3). Any trees or plants which within a period of 5 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, unless the Local Planning Authority gives written consent to any variation.

11. The emergency flare stack shall not be operated for maintenance or for testing purpose except between 0700 and 1700 hours on any day (not including Bank Holidays).

12. Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night. Daytime Noise Level 07.00am - 23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq1hr). Night-time Noise Level 23.00pm - 07.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceed the decibel level 33 dB (LA90 15min). Daytime (Evening) & Night-time Noise Level 19.00pm - 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise sensitive premises exceed 55 dB(LAFmax) evening (19.00-23.00hrs) and night-time (23.00-

07.00hrs). \*(From the noise data supplied). The average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance. The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance.

13. The operator shall provide to the local planning authority a further noise assessment within 1 month of the date of this permission. The assessment shall be undertaken by a suitably qualified noise consultant, shall cover all site noise sources, and shall demonstrate whether the limits specified in Condition 12 are complied with. The assessment shall also include details of noise mitigation works already carried out, and of any further works necessary.

Where the assessment findings show that any noise levels from the operation of the site are above the limits specified in Condition 12 of this decision notice, the operator shall, within 3 months of the noise assessment, carry out works to mitigate such effects to comply with Condition 12, details of which shall have first been submitted to and approved by the Local Planning Authority.

14. Heavy and light Goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site (the site is the area set out on the approved location plan outlined in red) shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.

15. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 month prior to the cessation of the use of the Anaerobic Digester plant hereby approved.

16. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regraded and be covered with topsoil to a depth of 500mm within a period of three months. The site shall then be planted in accordance with details to be agreed in writing by the Local Planning Authority.

17. The visibility splay at the site entrance shall be retained in accordance with plan 13425/T03 approved under planning permission 13/001605/MFUL with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.

18. The approved system Foscam F19900P or equivalent to monitor the barrier and access to the site is to be retained and maintained operational such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained.

19. The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw averaged over a quarterly period (such quarterly period to commence from the first Feed In tariff submissions and continue thereafter). Such records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.

20. The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.

21. The PF5000 Heavy Duty Manual Raise Barrier shall be retained in accordance with plan Drawing A Camera and Barrier dated 19th January 2017 agreed under 16/01180/FULL.

## REASONS FOR CONDITIONS

1. For the avoidance of doubt and in the interests of proper planning.
2. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area and the character and appearance of the conservation area in accordance with Mid Devon Local Plan 2013-2033 Policies S9, DM2 and DM25.
3. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with Policy DM2 of Mid Devon Local Plan 2013-2033.
4. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with Policies DM2 and DM20 of the Mid Devon Local Plan 2013-2033.
5. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with Policy DM4 of Mid Devon Local Plan 2013-2033.
6. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with Policies DM2, DM22 and DM27 of the Mid Devon Local Plan 2013-2033.
7. To protect the rural character of the area in accordance with Policies S9, DM5, DM20 and DM25 of the Mid Devon Local Plan 2013-2033.
8. The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with Policies DM2 and DM20 of the Mid Devon Local Plan 2013-2033.
9. To prevent pollution of the water environment in accordance with Policy DM4 of Mid Devon Local Plan 2013-2033.
10. To protect the rural character of the area in accordance with Policies S9, DM2, DM20 and DM25 of the Mid Devon Local Plan 2013-2033.
11. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
12. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033.
13. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
14. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
15. To ensure the Local Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.
16. To achieve a satisfactory landscape/restoration. In the interest of the visual amenity of the area in accordance with Policies DM1 and DM20 of the Mid Devon Local Plan 2013-2033.

17. To provide adequate visibility from and of emerging vehicles. In the interest of highway safety and consideration of the impacts on the environment, neighbouring residents due to the number of movements to and from the site and in order to accord with Policies DM2 and DM20 of the Mid Devon Local Plan 2013-2033.

18. To ensure the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.

19. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

20. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

21. To ensure all vehicles entering and leaving the site pass over the weighbridge to ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

## **INFORMATIVES**

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

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.

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.



Application No. 22/02374/MFUL

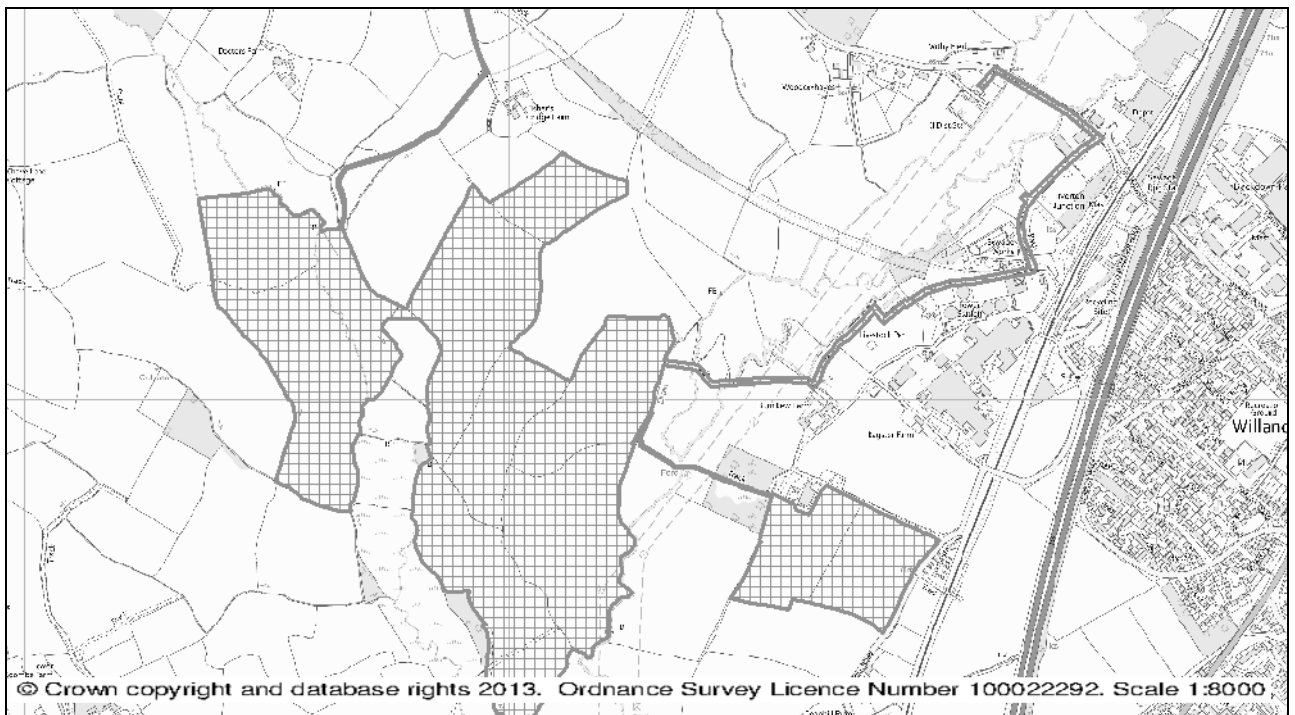
Grid Ref: 301974 : 110937

Applicant: Low Carbon Solar Park 23 Limited

Location: Land at NGR 301974 110937  
Dean Hill Road  
Willand  
Devon

Proposal: Construction and operation of a solar photovoltaic (PV) farm together with associated works, equipment and infrastructure

Date Valid: 4th January 2023



**APPLICATION NO: 22/02374/MFUL**

**Site Visit: Yes**    **Date of Site Visit:** February, March & June 2023

**Decision Delayed Reason:**

Additional ecology surveys required, which could only take place late April/early May, and additional work required following comments from the Council's landscape consultant, the Environment Agency and the Local Lead Flood Authority.

**MEMBER CALL-IN:**

Planning Committee 1<sup>st</sup> March 2023 and July 2023 for reasons of agricultural land impact.

**RECOMMENDATION**

Grant permission subject to conditions.

**SITE DESCRIPTION**

The application site measures 60.37 ha and comprises agricultural land near Dean Hill Road, Willand. The southern settlement edge of Willand is located circa 295m from the most easterly point of the application site; separated by a field and the M5 motorway. Halberton is located approximately 1.3km (0.8 miles) to the west of the Site.

The Site is primarily bound by other parcels of agricultural land except for the proposed construction access roads linking to Willand Road (passing existing industrial units) and Brown's Bridge Lane, and the eastern parcel which shares a boundary with Deans Hill Road.

The site comprises 81% best and most versatile agricultural land (BMV) of which, 68% as Grade 3a agricultural land and 13% as Grade 2. Of the remaining area, 18% is non BMV of which 10% as 3b and 8% as Grade 4 land, located to the south of the site. It is farmed as a mix of arable (cereal) crops and grassland. No fruit or vegetable crops are grown.

There are no existing Public Rights of Way (PRoW) crossing the land.

There are no statutory listed heritage assets within the Site boundary, although there are a number of listed buildings within 1km of the site. The nearest being Lower Coombe Farmhouse to the west of the site and Corn Mill and Nether Mill to the north west of the Site.

The Site is not situated within or near a designated Area of Outstanding Natural Beauty (AONB). The Site is within a Nitrate Vulnerable Zone (Mid Devon Reference: G18). There is also a SSSI Risk Impact Zone running through Deanhill Farm, although it does not apply to solar farm applications so consultation with Natural England is not required.

The Site is mostly within Flood Zone 1. However, there are some areas of Flood Zone 2 and 3, running through the western part of the Site.

The nearest residential properties to the site (excluding access points) are Fishers Bridge Farm (120m), Doctor's Farm (200m), Burn Rew Farm (115m), Langarra Park (approximately 7m to nearest pitch boundaries) and Deanshill Farm (75m).

## PROPOSED DEVELOPMENT

Construction and operation of a solar photovoltaic (PV) farm together with associated works, equipment and infrastructure.

The Proposed Development would consist of ground-mounted solar PV panels and associated infrastructure. The proposal consists of the construction, operation, maintenance and decommissioning of the solar farm. The solar panels would generate up to 49.9 MW of electricity which is enough to power approximately 16,581 homes. The anticipated CO2 displacement is circa 11,210 tonnes per annum.

The electricity produced by this solar farm would be exported to the distribution network operator (maintained by UK Power Networks) via underground cables.

The development would include the following equipment:

- Rows of Solar PV panels incorporating string invertors;
- Approximately 18 transformers (with four of the transformers sitting behind earth bunds);
- Approximate 1.5km cable connection from the Site to the Tiverton Junction Substation, Willand Road (the Cable Connection Route);
- Distribution Network Operator (DNO) Substation;
- Customer Substation/Switchgear;
- Internal buried cabling;
- Internal access tracks;
- Perimeter fencing and security gate; and
- CCTV cameras.

In addition to the above equipment there would be provision of new planting and landscaping to assimilate the development into the wider landscape, which would include the following (BNG Impact Assessment & Enhancement Plan, Table 6):

0.65ha deciduous woodland planting;  
0.52ha riparian woodland planting;  
0.64ha mixed scrub planting;  
9.5ha wildflower margins;  
310m hedgerow

All trees and hedgerows on or around the Site would be retained with the exception of 2x 5m sections of hedgerow for internal and external access.

### **Layout:**

The Site is split into two distinct land parcels: a larger north-western parcel and a smaller south-eastern parcel.

The Layout Plan External (Reference: LCS077-PLE-01\_rev12), that forms part of this planning application submission shows the proposed layout (Layout Plan External).

The infrastructure necessary for the Proposed Development would be set within the existing field pattern, with all field margins and boundary vegetation retained. The security fencing around the Site would be situated inside the boundary vegetation ensuring the fencing is not outwardly visible and the hedge can still be accessed for maintenance.

The solar arrays would be laid out horizontally, south facing to maximise the absorption of sunlight. The transformers would be located in the centre of the solar panels in each development zone to ensure that visual and noise impacts on surrounding receptors are minimised.

The substation compound would be located along the cable connection route (as shown in drawing Reference: LCS077-PLE-01\_rev12), close to the access road to allow for ease of movement once operational with effective screening.

### **Design flexibility (Rochdale Envelope approach):**

To retain design flexibility within the application the 'Rochdale Envelope' approach is proposed.

This approach involves using the maximum parameters for elements of the proposed development where flexibility is required. As such, the solar panels have been assessed at a maximum height of 3m, which is seen as a worst case scenario.

The Rochdale Envelope approach also involves defining development zones, rather than having a definite layout. The development zones are shown on the Development Zone Plan (Reference: LCS077-DZ-01\_rev07). This zoning allows flexibility in terms of the layout of the solar panels, inverters and batteries within each zone and for the DNO Substation and Customer Substation. All zones lie within the red line of the application area. The final precise siting of the apparatus can be secured by condition (if required) but as an interim allows optimisation of the solar farm apparatus following the grant of planning permission.

### **Access:**

The proposed site access for the northern land is via Willand Road, Brown's Bridge Lane and then an existing single property residential access track (which will require extending) south into the site.

The proposed site access for the southern land parcel (is via an existing farm access on the northern side of Dean Hill Road. Access to Dean Hill Road will be from Willand Road, via Lloyd Maunder Road.

### **Solar panels:**

These would be mounted on a metal frame and constructed from non-reflective glass. The solar panels are designed to absorb sunlight and the frame treated, together, to avoid any significant issues associated with glint and glare.

The panels would be laid out in straight arrays set at an angle of between 10 to 35 degrees from east to west across the field enclosures. The distance between the arrays would typically be between 3-6m. The top northern edges of the panels would be 3m above ground level and the south lower edges of the panels would be no less than 0.9m above ground level. The arrays would be static.

The metal framework that houses the modules will be supported at intervals by either single or double mounted posts approximately 5m apart, depending on the orientation/configuration of the panels. The posts will be driven into the ground at an approximate depth of 1.5m. The cabling would be concealed in trenches.

Dwg No. LCS-SD-17\_rev01 (Panel Cross Section) shows indicative dimensions of the panels and their frame.

### **Transformers:**

The proposed transformers will be contained within cabins (Dwg Reference: LCS-SD-26-01\_rev01). Each transformer will be approximately 6.6m long, 2.2m wide and 3.2m high.

### **Substation Compound:**

The connection into the local electricity distribution network would require a DNO substation. The DNO substation would measure 6m long, 8m wide and 4.1m high (Dwg Reference: LCS-SD-01\_rev04). A Customer Substation, which would be approximately 3m high, 10m long and 4m wide is also required (Dwg Reference: LCS-SD-02\_rev02).

The structures would be placed on a hard-core base. They would receive electricity from the transformers before transferring it to the local electricity distribution network.

It is envisaged that the containers/cabins and other small buildings would be appropriately coloured or clad to minimise any visual impact and comply as far as practicable with the local vernacular.

### **Cabling and Grid Connection:**

The development would connect to the Tiverton Junction Substation off Willand Road which is located northeast of the Site. The cable routing from the Site will cross a number of agricultural fields before following Willand Road to the Substation (Dwg Reference: LCS077-PLE-01\_rev011). All cabling for the Proposed Development will be located in buried trenches.

### **Security:**

The Site would be secured with a stock-proof fencing (mesh with wooden posts or similar) to a height of approximately 2m. The fencing would be sited a minimum of 4m inside the nearest hedges/trees/vegetation to ensure it is visually obscured whilst allowing access for hedge trimming. Gates would be installed at the site access point for maintenance access, which would be the same design, material and colour as the fencing.

The perimeter of the Site would be protected by a system of CCTV cameras, which would provide full 24-hour surveillance around the entire perimeter. An intelligent sensor management system would manage the cameras. The cameras would be on poles, approximately 2.5m high, spaced at approximately 50m intervals along the security fence. There would be no lighting within the Site.

The infrastructure required for the Proposed Development has been positioned to reduce the potential for crime. As such there are setbacks from access roads and site boundary; while sufficient safety measures following best practice guidance by BRE 'Planning guidance for the development of large scale ground mounted solar PV systems' including CCTV and fencing as noted above reduces this risk further.

For an example of the fencing and CCTV camera, see Figure 4-5, Design & Access Statement, Dec 2022.

### **Construction:**

Construction is expected to take place over approximately 20 weeks. During this period, initial site setup works would take place followed by construction of the internal access route(s), ground works, and the installation of the solar panels and other infrastructure.

Facilities would be provided onsite for construction workers, including provision of a site office and welfare facilities (including toilets, changing and drying facilities, and a canteen). Fencing would be installed around the perimeter of the Site and temporary parking would be provided for the construction workers.

During the 20-week construction period, it is proposed that construction working hours would be as follows:

- 08:00 – 18:00 Monday to Friday; and
- 08:00 – 13:00 Saturday.

Should work be required outside of these times, this would be agreed in advance and in writing with the local planning authority.

At the end of each day, mobile plant would be returned to a secure overnight plant storage, where drip trays can be utilised under the various types of plant, if needed.

### **Operation and decommissioning:**

Temporary planning permission is sought for 40 years.

Once operational, occasional maintenance of the solar panels and other infrastructure would be required. The solar panels would need to be periodically cleaned, most likely using distilled water, to ensure the efficient running of the system. It is expected that under normal circumstances no more than 4 two-way trips (either car or van) would visit the Site each week (i.e. generally less than 1 a day).

It is intended that the Site would be retained in agricultural use for the life of the Proposed Development; land between and underneath the panels could be used for sheep grazing and planting.

At the end of the temporary operational lifespan (approximately 40 years), the solar panels and other infrastructure would be removed, and the Site restored back to full agricultural use. The small quantity of foundations, hard surfacing and heavy infrastructure mean, in combination with retaining most of the Site as grassland, that the land would be easier to restore than other more intrusive development, e.g. large buildings requiring significant foundations.

The restoration process will ensure that the land is restored to the same quality as it was previously, which can be secured through planning condition.

### **Environmental impact assessment:**

A screening opinion request was submitted to the Council in July 2022. The Council issued a screening opinion in August 2022 under the Town and Country Planning Environmental Impact Assessment (EIA) Regulations 2017 stating that the proposed development was considered to fall within Part 3(a) of Schedule 2 of the EIA regulations as an industrial installation to produce electricity.

It was concluded that considering the characteristics and location of the development and the types and characteristics of potential impacts, the scale, nature and location of the proposed development, it was not anticipated that the proposals would result in significant environmental effects. The Council considered that based on the information provided, the proposals did not constitute EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulation 2017.

### **Community consultation:**

The applicant undertook public consultation with the local community between 4<sup>th</sup> August and the 11<sup>th</sup> September 2022 via a bespoke project website. Full details of the consultation are outlined within the Statement of Community Involvement (SCI). However, in summary, 43 comments were received with 58% supportive, 15% neutral and 18% negative (para 3.14, SCI). The majority of comments received were in relation to ecology and wildlife, landscape and visual impact, land use and agriculture, traffic access and construction, tourism and recreation, local heritage and archaeology, noise and flood risk. The applicant confirms in the Design & Access Statement that changes were made to the application in response to the comments received including additional planting to screen development along the southern boundary of the Site (Development Zones 3 & 5) and additional hedgerow planting along the north-western boundary of the Site (Development Zone 1).

The Local Planning Authority has undertaken both statutory (24) and neighbour (69) consultation including advert and site notices. This has been undertaken in accordance with statutory requirements.

## **APPLICANT'S SUPPORTING INFORMATION**

Alternative Site Assessment (5km), Statement of Need, Hazel Dormouse Mitigation Plan, Ecology Report, Landscape Visual Impact Assessment – Addendum, Written scheme for Investigation for Archaeology, Landscape Consultation response, Bat Activity Survey Report, Biodiversity Metric 3.1, Biodiversity Net Gain Impact Assessment and Enhancement Plan, Breeding Bird Survey Report, Cultural Heritage Desk-Based Assessment, Planning, Design and Access Statement, Flood Risk Assessment, Solar Photovoltaic Glint and Glare Study, Noise Assessment, Preliminary Ecological Appraisal, Soils & Agricultural Quality Report, Statement of Community Involvement, Transport Statement; Waste Audit Statement, Arboricultural Report, Tree Protection Plan, Archaeological Geophysical Survey, Landscape and Visual Impact Assessment (1-4), Topographical Survey, Development Zone Plan, Layout Plan External, CCTV Post Detail, Stock Fence & CCTV Elevation, DNO Substation Elevation / Dimensions & Floor Plan, Customer Substation Elevation / Dimensions & Floor Plan, Panel Cross Section, Transformer, SLP, Surface Water Drainage Strategy.

Ecological Impact Assessment Rev2 (Sept 2023) including updated bat activity survey, breeding and wintering bird survey, and potential for Great Crested Newt (and other reptiles and amphibians).

Agricultural Considerations & Outline Soil Management Plan (July 2023).

Planting Design – Planting Plan (1-17).

Landscape & Visual Impact Assessment – Addendum II (Sept 2023)

## **RELEVANT PLANNING HISTORY**

22/01343/SCR - CLOSED date 11th August 2022 Request for a Screening Opinion in respect of proposed 60.62ha solar farm

No relevant planning history

### **Other nearby solar farms**

15/01511/MFUL - Installation of a ground mounted photovoltaic solar farm to generate up to 5MW of power (site area 8.5 hectares), and associated infrastructure at Broad Path Landfill Site Burlescombe, Cullompton, Devon, EX15 3EP. Permission was granted in May 2020.

14/01949/MFUL - Non-material amendment for a change of use of land from agriculture to the installation and operation of a solar PV park to generate up to 5MW of power (site area 12.26 hectares) to include associated infrastructure at Willand Road. Permission was granted in July 2017.

14/01984/MFUL/NMA - Installation of a ground mounted PV solar farm to generate up to 250kW of power (site area 0.48ha) with associated infrastructure including inverters, transformers, substations, communications building, fence, and pole-mounted security cameras - Non-Material Amendment for the substitution of previously approved plans on land at Redhill Farm, Burlescombe, Devon. Permission was granted, excluding the lighting, in December 2016.

12/01350/MFUL/NMA - Installation and operation of solar farm to generate 1.8 megawatts, associated infrastructure, including PV panels, mounting, frames, inverters, transformers and fence - Non Material Amendment for various changes to layout at Knowle, Cullompton, Devon. Approved in March 2015.

### **Other nearby solar farms previously refused:**

12/01664/MFUL - Change of use of land from agriculture to the installation and operation of a solar PV park to generate up to 6.3474MW of power (site area 20.83 hectares) to include associated infrastructure. (Brithem Bottom).

14/00889/MFUL - Change of use of land from agriculture to the installation and operation of a solar PV park to generate up to 8MW of power (site area 20.83 hectares) to include associated infrastructure (Revised scheme). (Brithem Bottom).

### **DEVELOPMENT PLAN POLICIES**

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

S1 – Sustainable Development

S8 – Infrastructure

S9 – Environment

S14 – Countryside

DM1 – High Quality Design

DM2 – Renewable and low carbon energy

DM3 – Transport and Air Quality

DM4 – Pollution

DM5 – Parking

DM25 – Development affecting heritage assets

DM26 – Green infrastructure in major developments

Mid Devon Supplementary planning document -

National Planning Policy Framework

National Planning Policy Guidance

### **INFORMATIVES**

Solar PV development in the landscape (2016) (MDDC SPD)

Conservation Principles

Historic Environment Good Practice Advice: GPA3 (Setting of Heritage Assets)

Devon Waste Plan 2011-2031: W4 – Waste Prevention

### **CONSULTATIONS**

#### **Willand Parish Council – 24 January 2023**

No objection.

#### **Uffculme Parish Council - 9 February 2023**

No objection.

#### **Tiverton Town Council – 10 January 2023**

No comment



## DCC Ecology – 25 September 2023

1. The EclA goes a long way in updating the Preliminary Ecological Appraisal and provides far more surety of the impacts from the proposal and the measures required to mitigation those. The following comments and recommendations should be used to inform working documents that will form planning conditions.

2. Bats – recent research (Tinsley, E., Froidevaux, J. S. P., Zsebők, S., Szabadi, K. L., & Jones, G. (2023). *Renewable energies and biodiversity: Impact of ground-mounted solar photovoltaic sites on bat activity*. *Journal of Applied Ecology*, 00, 1–11. <https://doi.org/10.1111/1365-2664.14474>) found that bat species, including a range of those recorded using the site, that feed in both cluttered (some *Myotis* species) and edge habitats were affected along boundary habitats, and that species that feed in open space such as *Noctule* (which were notably frequently recorded during surveys), cluttered (Long-eared species) and edge habitats (*Pipistrelle* species) were negatively affected by the presence of solar panels in open fields. The article suggests that mitigation could include, but not limited to, reducing the density of panels within the site footprint, ensuring boundary habitat is maintained and improved in its area and diversity, and ensuring appropriate planting to improve foraging resources for those species identified as being at risk from the development.

Overall, it is considered that the proposed mitigation measures achieve this. However, greater emphasis, particularly on hedgerow management aimed at bats such as horseshoe bats, should be incorporated into a Landscape & Ecological Management Plan (LEMP), particularly given the survey results indicate the site is within the Core Sustainance Zone for several species recorded using the site. *Managing Landscapes for the Greater Horseshoe Bat*, (English Nature, 2003) may be a useful reference.

The EclA states that bat activity is focused on the east, centre and south of the site. However, only the walked transect included a section of the western section of the site. No static detectors were deployed here. However this is not considered a significant limitation as the habitat types are reasonably consistent across the site. Therefore, the results from static detectors deployed in the central and eastern sections are likely to be indicative of bat activity in the western section.

The mitigation measures regarding lighting during construction will need to go further in limiting the seasonal hours of work to avoid impacts on bats.

It would be desirable to see a precautionary method statement for the felling of the tree(s) with moderate bat roost potential included in the protected species mitigation strategy and incorporated into a Construction Environmental Management Plan (CEMP).

3. Common reptiles and amphibians. No surveys were conducted for reptiles, however the EclA acknowledges that Great crested newts, and therefore implying that both common reptiles and other amphibians, could be present. The precautionary mitigation for Great crested newts referred to in the EclA should be incorporated into a CEMP and accommodate other amphibians and reptiles. It would also be desirable to see wood from the felled tree used to create a log pile or two in an appropriate location as an enhancement feature.

4. Birds – it would be desirable to see owl boxes included in the LEMP.

The above recommendations and all mitigation, compensation and net gain measures in the EclA (September 2023) and the Biodiversity Net Gain Assessment and Enhancement Plan (December 2022) should be incorporated into the relevant documents listed below.

Recommended Conditions:

**Lighting strategy** for agreement with the authority, prior to works commencing, that minimises impacts from lighting associated with construction and operational activities and demonstrates how the current best practice (BCT/ILP, 2023) guidance and Devon guidance ‘*Maintaining dark corridors through the landscape for bats*’ (Jan 2022) has been implemented to ensure the site continues to support commuting and foraging bats within the site and the wider landscape.

**Reason:** to ensure the site’s identified bat flight lines continue to function as dark corridors; bat flight lines and foraging areas and hedgerows supporting Hazel dormice are unaffected by light spill.

5. No part of the development hereby approved shall commence until a **Construction Environmental Management Plan** (CEMP) has been submitted to and approved in writing by the Local Planning

Authority. The CEMP (Biodiversity) shall include the following. a) Risk assessment of potentially damaging construction activities. b) Identification of “biodiversity protection zones”. c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements). d) The location and timing of sensitive works to avoid harm to biodiversity features. e) The times during construction when specialist ecologists need to be present on site to oversee works. f) Responsible persons and lines of communication. g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person. h) Use of protective fences, exclusion barriers and warning signs.

**Reason:** To ensure the development does not harm protected species, or their habitats in accordance with wildlife legislation.

6. A **Landscape and Ecological Management Plan (LEMP)** shall be submitted to, and be approved in writing by, the local planning authority prior first occupation of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

**Reason:** To protect the landscape character of the area and to mitigate, compensate and enhance/provide net gain for impacts on biodiversity.

### **DCC Ecology – 10 May 2023**

Summary: If the authority is minded to grant consent it should not do so until an Ecological Impact Assessment (EclA), (please refer to DCC comments dated 13.01.23), detailing the results of all surveys for protected species and all corresponding mitigation and compensation measures, has been submitted and reviewed. Mitigation for Hazel dormice must be provided on an assumption of their presence throughout the site and this must include mitigation for all phases of the development including the provision of hop-overs/ continued connectivity where gaps in hedgerows have been made.

Planning conditions relating the implementation of all measures within the EclA are recommended:

- Pre- and during construction: Construction and Environmental Management Plan that accords with the BS42020, provided to the authority for written approval prior to any works commencing.
- Operation: Landscape and Ecological Management Plan that accords with the BS42020, provided to the authority for written approval prior to the any phase of the development coming into operation.

Lighting strategy that accords with ILP/BCT 2018 guidelines provided to the authority for written approval prior to the development coming into operation.

### **DCC Ecology – 21 January 2023**

DCC are satisfied that the Preliminary Ecological Appraisal (PEA) was sufficient to assess the main

habitat types and identify the site's ecological receptors including those that triggered the need for targeted phase two surveys. The range and methodology of secondary surveys is largely considered acceptable except for:

1. Bat activity surveys were of a lower effort than prescribed within guidelines (BCT, 2016) and did not include a spring sampling.
2. The Phase 2 aerial survey for bats on a tree that would be removed by the proposals is outstanding.
3. The breeding bird survey was undertaken at a sub-optimal time of year, particularly for Skylark which was identified as a likely ecological receptor and if present will have a bearing on mitigation measures (e.g., Skylark plots) required for wild birds. The survey was also limited to a single site visit during exceptional weather. The breeding bird report highlights the survey limitations and recommends further survey.
4. The bird survey report recommends overwintering bird surveys which appear to be outstanding although may be currently underway.
5. Surveys for Great crested newts are outstanding.

In addition to the above, Hazel dormice are mentioned in the PEA report but beyond establishing data records within 2km are not discussed further in the report despite suitable habitat clearly being present. As some hedgerow removal is planned, it would have been advisable to undertake a targeted survey for this species. The removal of hedgerow and permanent 5m gaps in some hedgerows will need to be mitigated if dormice are present. This species would also help to shape the planting composition, habitat management and monitoring strategy of the biodiversity net gain and enhancement plan, if present.

As protected species are a material consideration in the planning process, results from the above outstanding and incomplete surveys are required to inform mitigation measures, and compensation and biodiversity net gain strategies, prior to determination of the application.

DCC recommend that once the surveys are complete, the PEA is upgraded to an Ecological Impact Assessment (EclA) which pulls together all survey data and provides an overarching assessment of significant effects upon the identified ecological receptors on-site and within a defined Zone of Influence. The EclA should accord with relevant guidelines (CIEEM, 2019) and include a mitigation strategy informed by the survey findings. The Biodiversity Net Gain Assessment and Enhancement Plan, and net gain Metric calculation may also need to be updated once the mitigation strategy is finalised. All documents must be reviewed and approved by the authority before the application is determined.

It is likely that planning conditions will be needed to secure biodiversity net gain for a minimum of 30 years, a Construction Environmental Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP), in accordance with the BS42020: 2013 Biodiversity: Code of Practice for Planning and Development, as well as a lighting strategy.

### **MDDC Tree Officer – 10 July 2023**

Neither objecting to nor supporting the Planning Application.

The construction and operation of a solar photovoltaic (PV) farm together with associated works, equipment and infrastructure at Dean Hill Road Willand is a rural location that consists of predominantly agriculture fields with mature trees and hedge lines. The presence of the mature trees and hedges significant influence the character of the local and wider area. Informing the trees and natural vegetation are a features in the landscape, where preservation of them should be preserved.

There are no trees subject to a preservation order within the application area. No trees are afforded a level of protection by virtue of a conservation area too within the application area.

In support of the application an Arboricultural report along with an Arboriculture Impact Assessment (AIA) and Tree Protection Plan (TPP) have been provided. In review of the report along with the AIA the majority of the 112 individual trees, 41 groups, 1 woodland and 21 hedges should not be adversely affected by the proposals. It is noted in the report that the panels will also leave a large radius around the established field trees so they can be retained and protected. No trees or hedges are required to be removed to allow for the solar panels and where there panels will also leave a large radius around the established field trees so they can be retained and protected. No trees or hedges are required to be removed to allow for the solar panels. The report does note that sections

of this group may need to be cut back to allow for access. These works would significantly impact the wider landscape. To allow access to the site, as well as allow for the construction of an internal roads, T7 and T8 will require removal. These are both category B Oak.

Also where proposed roads run close to some trees the report noted no dig' construction method and the use of a 3D cellular confinement and load spreading system should be utilised. The report further notes that section of hedges and groups of trees shall require removal to facilitate access roads and electrical cable. In general the loss of the trees should not detract the overall landscape. However, tree planting mitigation should be undertaken to ensure canopy loss and associated benefits is lessened.

Where the proposal is permitted the following should be conditioned:

- A minimum buffer of 5m will be established from all hedgerows around the site. There will be a 15m buffer around the woodland.
- All retained trees, groups and hedges will require protection during the construction work to make sure that they are not damaged. This can be achieved by creating a Construction Exclusion Zone (CEZ), using barriers to exclude vehicles, personnel and materials.
- A 'no dig' construction method and the use of a 3D cellular confinement and load spreading system. Where roads are in close proximity to trees as informed by the AIA, APPNDIX D.
- No encroachment of the solar panels into the RPA of 1 tree, T70.
- A tree replacement plan showing new tree planting to mitigate the loss of tree required by proposals.
- Any trees within the application area requiring pruning or felling within a period of 10 years post completion to require permission from the planning authority.

### **Environment Agency – 16 October 2023**

Following review of the additional information submitted, we are able to remove our objection to the proposed development. We recommend that the revised Flood Risk Assessment ref. 60644715 revision 5 by AECOM dated 13th July 2023 is included in the list of approved documents on any decision notice to secure its implementation. The reason for this position and advice is provided below. Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application. Further advice about the application of the sequential test is included at the end of this letter.

**Reason** – The applicant submitted a revised Flood Risk Assessment (FRA) (revision 5) which also included the Hydraulic Modelling Report (appendix G). Further, AECOM made the Hydrological Calculations Report and a hard drive with the flood model available to us also. Following review of these documents and the revised 'Sheet Location Plan' (ref.: TSF-XX-ZZ-DR-L-0100\_P4) we are now confident that, in the broadest terms, the development as now proposed will conform with the overriding policy aims of the National Planning Policy Framework and associated Planning Practice Guidance. The findings of the comprehensive hydraulic modelling work by AECOM are sufficient to overcome our previous concerns.

It is evident that there would be shallow depths of flood within the areas mapped as flood zone 3 (and that of flood zone 3b - functional floodplain) in which the solar panels are proposed. However, the submitted information has demonstrated that in this instance, the development can be accommodated when taking into account the effects of climate change. We particularly support the reconnection of parts of the floodplain within the application site to the Halberton Stream achieved by the removal of historic flood banks associated with historic agricultural land drainage practice adjacent 'Development Zone 1'. The removal of the embankment features as shown on Figure 6- 1 of the FRA Version 5 will help flood water spread out and reoccupy its floodplain which will help reduce flood risk downstream of the

application site such being a policy aim of the NPPF – an approach which should be commended. The floodplain reconnection element of the development proposal is consistent with the aims of the Connecting the Culm project.

#### **Informative – Environmental Permitting**

Parts of the Halberton Stream and Spratford Stream within the application site are designated as 'Man' river. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities detailed in [Flood risk activities: environmental permits - GOV.UK \(www.gov.uk\)](#). The applicant must ensure they obtain the correct permit where applicable.

#### **Advice to the LPA – Sequential Test**

##### **What is the sequential test and does it apply to this application?**

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test and:
  - the proposed development is consistent with the use for which the site was allocated; and
  - there have been no significant changes to the known level of flood risk to the site, now or in the future, which would have affected the outcome of the test.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

##### **Who undertakes the sequential test?**

It is for you, as the local planning authority, to determine an appropriate area of search and to decide whether the sequential test has been passed, with reference to the information you hold on land availability. You may also ask the applicant to identify any other 'reasonably available' sites which are on the open market and to check on the current status of identified sites to determine if they can be considered 'reasonably available'. Further guidance on the area of search can be found in paragraphs 027-030 of the planning practice guidance [here](#).

##### **What is our role in the sequential test?**

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance: [Flood risk and coastal change - GOV.UK \(www.gov.uk\)](#).

## Environment Agency – 03 May 2023

We object to the proposed development in its current on the grounds of flood risk. Primarily, we note that the applicant is preparing hydraulic monitoring which will be required in order to establish whether it is appropriate for the development to be located within Flood Zone 3. Without this additional assessment of the flood risk, we would consider all of the Flood Zone 3 on the site to be functional floodplain (Flood Zone 3b) which raises concerns as to the appropriateness of the development. The reason for this position and further details regarding the information required to overcome our objection.

Reason - The site is located in part within flood zone 2 and 3 associated with the Spratford Stream catchment. The proposal, as submitted would involve the provision of solar panels and associated infrastructure, some of which would be located in flood zone 3 which is the high risk zone. Whilst the application is accompanied by a Flood Risk Assessment (FRA), it notes that a "site-specific hydraulic model is currently being produced to support this FRA" (page 17 of the FRA). This modelling seeks to demonstrate whether the proposal "coincides with the flood extent associated with the 1% AEP plus climate change event (the design event)". In the absence of this flood modelling the entire extent of flood zone 3 should be considered as being in Flood Zone 3b 'functional' floodplain. This means that the mitigation measures in the FRA, specifically: "No panels will be located within Flood Zone 3b (to be determined by site specific hydraulic model) as agreed with the Environment Agency" presents a contradiction as the proposed plans clearly show solar PV within flood zone 3.

We accept that, in line with the planning practice guidance paragraph 079 (ID: 7-079-20220825) the principle of locating essential infrastructure within flood zone 3b is acceptable, but is subject to the satisfaction of the Exception Test and should be designed and constructed to:

- a) remain operation and safe for users in times of flood;
- b) result in no net loss of floodplain storage;
- c) not impede water flows and not increase floodrisk elsewhere.

We also highlight that paragraph 164 of the National Planning Policy Framework (NPPF) in effect states that 'Essential Infrastructure' provision in areas of flood zone 3b (functional floodplain) 'where possible, will reduce flood risk overall.' Evidence available strongly suggests this policy aim is quite feasible in this instance. This may be achieved through the considered reconnection of river channels with the floodplains because there currently being a high degree of disconnection due to historic land drainage practices.

Where the findings of the modelling indicate that the areas of flood zone 3 are predominantly not functional floodplain (flood zone 3b) we would still strongly advise interventions to reduce risk by floodplain reconnection be implemented. To date the submission has not adequately addressed the above.

### Overcoming our objection

The application may overcome our objection by submitting additional information to address the concerns raised in this letter. Specifically, we require the flood modelling to be submitted in order to provide a position on the appropriateness of siting the PV panels in food zone 3.

Further, there is scope to achieve multiple benefits through this development in term of reducing flood risk, achieving a Biodiversity Net Gain, supporting the delivery of the Connecting the Culm project and we strongly encourage your authority and the applicant to seek these benefits. For example, the statutory 10%

Biodiversity Net Gain provision requirement could, in part, be delivered as a consequence of reconnecting the floodplain with its channel system, which would act to also reduce flood risk overall. We strongly advise that the applicant submits drawings which indicate where such interventions could be carried out using the modelling results.

In strictest terms the extent of flood zone 3b (functional floodplain) should be based upon the extents at the end of the end of the lifetime of the development and thus the appropriate climate change allowances should be used and also the channel system present should be accurately represented.

If the findings of the hydraulic modelling indicate that the areas of flood zone 3 are predominantly not flood zone 3b (functional floodplain) we would still strongly advise that interventions to reduce risk by floodplain reconnection be implemented as part of the proposal.

We look forward to being re-consulted upon receipt of the hydraulic modelling, and additional information/plans as outlined in this letter.

### **Halberton Parish Council – 14 February 2023**

The Parish Council RESOLVED to strongly object to the application based on a number of material planning considerations and will request its Ward Councillor to call the application in.

The Parish Council's strong objection is based on the following material planning conditions:

Previous planning decisions (including appeal decisions)

Whilst the Parish Council understand the requirement to look at the application before them, we feel there are a number of solar farm initiatives across Devon at various stages of application and thus a holistic view of solar farm placement across the county should be carried out before further solar farm applications are considered.

There have been two previous applications associated with the valley running through the parish of Halberton which were refused by MDDC Planning.

14/00889/MFUL | Change of use of land from agriculture to the installation and operation of a solar PV park to generate up to 8MW of power (site area 20.83 hectares) to include associated infrastructure (Revised scheme) | Land at NGR 300991 111214 (Great Curham Farm) Brithem Bottom Devon (middevon.gov.uk)

12/01664/MFUL | Change of use of land from agriculture to the installation and operation of a solar PV park to generate up to 6.3474MW of power (site area 20.83 hectares) to include associated infrastructure | Land at NGR 300991 111214 (Great Curham Farm) Brithem Bottom Devon (middevon.gov.uk)

The Parish Council believe that the loss of land and the loss of visual amenity are valid reasons for refusal especially given that the previous application was a third of the size.

A large-scale solar panel of similar capacity is located in Mid Devon on the other side of Cullompton.

Size of development

The size and scale of the development on farmland is out of keeping with the surrounding area.

Impact on the environment/Flooding

The Parish Council is aware that the area can be liable to flooding. There will significant increased run-off from the solar panels increasing the risk of flooding.

There is the potential to lose historic meadowland and cause significant damage to existing flood plain meadows during construction. How will the land be protected?

The area is already an area of significant bio-diversity and any work undertaken by the applicant is likely to replace and not enhance the area. What are the long term plans to ensure that lost bio-diversity will be replaced. The Parish Council questions how the applicant can claim a net bio-diversity gain.

The Parish Council has noted the comments made by Devon County Council and the Devon Wildlife Trust.

#### Visual Impact

Given that all photographs showing the visual effect of the Solar Panel Farm were taken in the summer prior to it being in place. The Parish Council questions the detrimental glint and glare of the site given it could be seen from higher ground across the parish potentially including the Grand Western Canal and local roads - which spoils the current open countryside views. Does the landscape and visual assessment meet due diligence?

#### Traffic/Safety

The Parish Council questions the long term safety and accessibility to the site given the propensity to flood.

The Parish Council is also concerned at the impact on roads and road safety from the resultant construction traffic which will be substantial given the magnitude of the proposed site. This HGV traffic will have to make use of low grade roads and historic bridges.

The Parish Council would seek assurances that all construction and maintenance traffic will travel from the M5 through Willand and not come through Halberton.

#### Sustainability

The Parish Council questions the accuracy of the output figures given that solar panels only operate during the day and output is dependent on sunlight.

#### Battery storage

Given the necessity to balance the national grid and the recent approved large solar panel near Cullompton, the Parish Council would question the decision to not provide for battery storage at the site.

#### MDDC decision process

If MDDC planning were mindful to approve the application then a part community ownership agreement or an agreed assured community monetary fund for the parish should be put in place with the parish involved in its setting up and administration through an agreed Liaison Group with such monetary fund being linked to the proposed output levels or, any higher level reached. Permissive paths, information points, solar panels for community buildings etc. together with work to mitigate the potential flooding.

#### **Highway Authority – 09 February 2023**

The accesses from the highway are both off unclassified roads and Browns Bridge Lane is restricted to 60 MPH and Deans Hill Road is also restricted to 60 MPH. Although observed speeds in both areas are considerably lower.

Willand Road has a Height restriction of 4.6 metres and 16.6 m long 7.5 T weight restriction for access only. There is no weight restrictions on Browns Bridge Road.

With regards Deans Hill Road and the access, this would be acceptable for the proposed number of vehicles to deliver to this location.



Browns Bridge Lane is very narrow and would require passing places to ensure vehicles can pass safely. The County Highway Authority would be happy for this to be conditioned if the application were to be approved.

The County Highway Authority has consulted National Highway Historical Railways Estate with regards this application and the weight and length of the vehicles which will be travelling over Browns Bridge Lane Bridge and they have no concerns with this proposal.

**Recommendation:**

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

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

**Off-Site Highway Works:** No development shall take place on site until the off-site highway works to provide the necessary number of passing places along Browns Bridge Lane has been agreed by the Local Planning Authority and constructed and made available for use.

**REASON:** To minimise the impact of the development on the highway network.

Historic Environment Team –25 August 2023

In the light of the receipt of the results of the geophysical survey and archaeological field evaluation I would like to withdraw the Historic Environment Team's previous objection and instead offer the following advice:

The Historic Environment Team has now had sight of the interim report setting out the results of the archaeological field evaluation undertaken subsequent to the geophysical survey of the proposed development site. These investigations have demonstrated the presence of truncated Bronze Age, Iron Age, Romano-British and medieval activity across the application area. The heritage assets within the site include the remains of a Bronze Age ring ditch, two double-ditched Romano-British enclosures and a spread of medieval putative charcoal production pits.

While the Historic Environment Team do not consider that these heritage assets are of such significance to preclude development of the site, groundworks associated with the construction of foundations for the solar panels and associated infrastructure will have an impact upon these archaeological and artefactual

deposits. The proposed development of the site as a solar farm will mean that these heritage assets are, to all intents and purposes, “lost” beneath the development for the lifespan of the solar farm. As such, the Historic Environment Team would advise that the impact of development upon the archaeological resource within the proposed development site should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will be affected 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 with 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 205 of the National Planning Policy Framework (2021) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM25 (2020), 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 as agreed in writing by the Local Planning Authority.’

REASON: To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), 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.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

‘The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.’

REASON: To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.’

I would envisage a suitable programme of work as taking the form of targeted archaeological excavation of areas affected by the construction of the proposed new solar farm known to contain archaeological or artefactual deposits to ensure an appropriate record is made of the heritage assets. 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.

Additionally, the proposed site layout of photovoltaic arrays and infrastructure appears to avoid the sites of archaeological features that were identified by the geophysical survey. As such, the Historic Environment Team would advise that any consent should be conditional upon the production of an approved Construction and Environmental Management Plan that will detail the proposed construction methodologies and provision for protecting these sites from accidental damage during construction works.

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/>.

### **Historic Environment Team – 20 January 2023**

The report setting out the results of the geophysical survey undertaken of this site has clearly demonstrated that the proposed solar farm lies in an area of high archaeological potential. Within the application area the survey has identified two substantial ditched enclosures, which are likely to be prehistoric or Romano-British in date, along with other anomalies that are indicative of prehistoric settlement.

Despite the identification of these heritage assets with archaeological interest the layout of the proposed solar farm makes no allowance for their exclusion from the development and their preservation in situ. The supporting information does not include the results of any archaeological field evaluation of the site to allow an understanding of the significance of the heritage assets identified or the impact of the proposed development upon them. It is not possible to determine the significance of the identified heritage assets or the efficacy of the survey without undertaking intrusive archaeological investigations. As such, the information submitted in support of this application is not sufficient to enable an understanding of the significance of the heritage assets within the application area or of the impact of the proposed development upon these heritage assets.

Given the high potential for survival and significance of below ground archaeological deposits associated with the known prehistoric and/or Romano-British activity and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. This would be in accordance with guidance in paragraph 5.3 in the supporting text for Mid Devon Local Plan Policy DM25 (2020) and paragraphs 194 and 195 of the National Planning Policy Framework (2021).

The additional information required to be provided by the applicant would be the results of a programme of intrusive archaeological field evaluation to investigate the anomalies identified by the geophysical survey and any 'blank' areas to test the efficacy of the survey itself. In addition the south-eastern parcel of land that was not subject to the survey due to vegetation cover will need to be investigated through a programme of archaeological field evaluation.

The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area to be understood as well as the potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by your Authority.

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

### **Devon, Cornwall & Dorset Police – 11 January 2023**

From a designing out crime and ASB perspective, I have no objections in principle to the proposals. Solar farms are by their very nature and location always potentially vulnerable to criminal attack and so any appropriate means of preventing/detering this is in principle supported.

I note that the site will be enclosed with 2m deer fencing. Will the perimeter fences incorporate a PID system? PID is a Perimeter Intrusion Detection System, it is series of fence mounted sensors that monitors and detects any form of intrusion from the perimeter and then can provide a real time alert of this.

I would also advise that the proposed on site buildings and containers be further enclosed with fencing and gates to an appropriate standard such as LPS 1175 issue 8. Where appropriate and feasible, any on site buildings should be protected by an intruder alarm, this is recommended to be monitored and compliant with current National Police Chiefs Council guidance. The buildings should also have robust

external doors/windows. These are advised to meet an appropriate security standard such as LPS 1175 or equivalent.

The CCTV is noted and supported. It is recommended the system have real time detection monitoring and response rather than a system which only records. Cameras, wiring and recording or monitoring equipment should be secured. CCTV should be designed in co-ordination with external lighting and landscaping. A passport for compliance document, previously known as an Operational Requirement (OR), should be drawn up prior to installation to ensure any system will be fit for purpose.

Consideration should also be given to incorporating a movement activated audio challenge system as part of the overall security strategy.

I would suggest that the above brief guidance should also be applied to any compounds during the construction phase of any approved project.

Please do not hesitate to contact me if any clarification is sought or I can assist further.

### **Public Health – 25 January 2023**

Noise - The applicant has undertaken a comprehensive noise assessment and prediction in a report by Tetra Tech dated September 2022. There are potential localised noise sources in the 150 Inverter Strings and the 18 transformers as well as a single sub-station. The writer has taken into account all potential residential receptors and used a standard prediction model to assess potential impact. The results conclude that impacts are unlikely both externally and internally at any residential receptor. The sub-station and transformers will be located within noise insulated containers and the transformers will be enclosed by earth bunds. We do not anticipate any concerns regarding this once the development is complete.

However, our experience elsewhere is that temporary power sources are required during the construction process and that these have caused noise impacts, particularly at night. Siting and noise mitigation for these sources, if used, should be carefully considered in order to ensure that there are no off-site noise impacts affecting individual households.

Construction management - We recommend that a CMP and CEMP are required by condition and that they include measures to ensure that off-site flooding or dirty water run-off does not occur during construction. This has been a major issue elsewhere with local roads and some residences affected by muddy water pollution when construction of the trenches occurs in wet weather. Measures should be incorporated to ensure that all displaced water is managed on site, particularly at any vehicle access points. There will be a substantial number of large vehicle movements on and off site during construction and effective measures for the control of mud, including semi-permanent roadway, wheel wash, and interceptors should be incorporated into the CMP.

We therefore recommend that the standard CMP and CEMP conditions are included on any approval, and that the CEMP includes details of noise mitigation for any temporary power sources to be used.

### **Flood & Coastal Risk Management Team – 8 November 2023**

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Two Tree Solar Farm Surface Water Drainage Strategy (Report Ref. -, Rev. 04, dated 25th October 2023) but with the updated swale layout on Drawing TN\_ACM\_XX\_XX\_DR\_CE\_1057, 1059 and 1060, Rev. P5, dated 06th November 2023).

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

**Observations:**

The applicant are proposing to drain the surface water runoff from the proposed development site to a network of strategic swales.

The current proposal makes allowance for a 25% of impermeable area from the infrastructure road using unbound material. This allowance will need to be agreed in a later stage depending on the material proposed during detailed design. Should the proposed material is impermeable, the total area of the infrastructure road shall be taken forward.

The proposed swales network shall be located outside of the floodplain to ensure their attenuation functionality. The only exception would be for area within Catchment Zone 2.

The associated storage calculation shall be submitted together with the refined layout of the solar panel during the detailed design. No solar panel shall be located on the locations of the proposed swales.

**Flood & Coastal Risk Management Team – 2 November 2023**

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Two Tree Solar Farm Surface Water Drainage Strategy (Report Ref. -, Rev. 04, dated 25th October 2023);
- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted;
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system; and
- (d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

REASON: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

**Observations:**

The applicant is proposing to drain the surface water runoff from the proposed development site to a network of strategic swales. The current proposal makes allowance for a 25% of impermeable area from the infrastructure road using unbound material. This allowance will need to be agreed in a later stage depending on the material proposed during detailed design. Should the proposed material be impermeable, the total area of the infrastructure road shall be taken forward.

The proposed swales network shall be located outside of the floodplain to ensure their attenuation functionality. The only exception would be for area within Catchment Zone 2.

### **Flood & Coastal Risk Management Team – 24 January 2023**

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy S9/DM1 of Mid Devon District Council's Local Plan 2013 to 2033 (Adopted 2020), 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.

It's noted that site access roads cross the floodplain, the applicant should consider emergency access and egress within their design and the LPA should consult with their emergency planner on the plans. There is not the same area of land available for infiltration post installation of the solar panels, this argument has been accepted in a South West planning appeal decision (Appeal Ref: APP/D3315/A/13/2203242) therefore, attenuation and conveyance SuDS are required to address this and the associated erosion risks. To ensure that all parcels of the site can and will accommodate appropriate SuDS measures a prospective design should be provided alongside details on the existing soil conditions.

Devon County Council's Flood and Coastal Risk Management Team recommends that a wide perimeter cross-contour vegetated swale is constructed around the downstream boundaries of the site. It is essential that these swales are constructed to intercept flows and limit the aforementioned impacts to the nearby watercourses and surrounding agricultural land.

#### **Ancillary Buildings**

Any ancillary buildings on the site, such as inverter cabins or substations, will likely contribute to the perturbed surface water runoff, and without sufficient control measures, will exacerbate the concentration of downslope flows and soil erosion.

As a means of controlling these impacts, filter strips should surround the concrete bases of the ancillary buildings to capture any runoff from the roofs, which should in turn be conveyed to the wide cross-contour perimeter swale around the downstream boundary of the site.

#### **Access Tracks**

The movement of plant across these sites is likely to further disturb the ground surface and contribute significantly to soil erosion and water quality issues downstream/downslope. Any access tracks across the site should therefore be constructed with permeable materials which can be demonstrated to withstand the significant loadings of the machinery required for the construction of these sites. In order to manage any surface water exceedance from the permeable tracks, further swales should be incorporated to convey the water to the cross-contour perimeter swale at the downstream boundary of the site in order to maintain downstream / downslope water quality.

#### **Vegetation**

Concentrated runoff from the panels is likely to lead to erosion of the ground surface below, contributing significantly to water quality issues downstream/downslope. If appropriate, tussock grasses can be used to dominate around and beneath the photovoltaic panels to limit soil erosion caused by runoff from the panels. Allowing the site to naturally colonise is likely to leave the soil surface significantly vulnerable to erosion, particularly during intense precipitation events. It is also imperative that these grasses are maintained regularly when the site is operational as the soil structure and the quality of the downstream watercourse or agricultural land will greatly depend on this. The Applicant should therefore, indicate on their planting plan that vegetation cover is maintained site wide especially adjacent/underneath the solar arrays.

#### **Construction**

The applicant should consider within their strategy how surface water will be managed to avoid increasing flood risk and pollution risk during the construction phase. There should be specific reference to how compaction of the soil will be addressed (i.e chisel ploughing post construction).

### Ordinary Watercourses

An appropriate easement free from development along either side of all onsite ordinary watercourses will need to be provided (for ordinary watercourses this is usually 1m). Watercourse crossings should be kept to a minimum but we are pleased to see plans for free span structures referenced for all crossings. Ordinary watercourses which run through the site may need to be crossed to enable ground works to take place. If any temporary or permanent works take place within these watercourses (such as an access culvert or bridge), Land Drainage Consent will need to be obtained from Devon County Council's Flood and Coastal Risk Management team prior to any works commencing. Details of this procedure can be found at:

<https://new.devon.gov.uk/floodriskmanagement/land-drainage-consent/>.

For main river crossings the applicant will need to contact the Environment Agency to discuss the requirements for Flood Risk Activity Permits.

### Additional Comments

The following comments are likely above and beyond the requirements laid out under planning regulations however, if the applicant is looking to provide betterment and possibly an option for some biodiversity net gain then I'd like to highlight that this is currently an area where the Devon Resilience Innovation Project Team are working. They have assessed much of the western parcel as offering potential for large scale water attenuation, in the form of attenuation of flood water in field and potentially an area of Stage Zero channel reconnection. This may assist with the reduction in flood peaks for downstream where the Halberton Stream meets the Spratford Stream, and consequentially water levels around Cullompton and the Hele Railway Crossing.

Parts of the site are priority habitat (Floodplain grazing marsh), the reversion of this area to this habitat would also offer a benefit in reducing flood risk.

If this planning application is approved by the LPA, we would welcome the opportunity for this to form part of the application and possibly conditioned enabling the development to offer a wider benefit to the local community.

### **Flood & Coastal Risk Management Team – 4 August 2023**

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy S9/DM1 of Mid Devon District Council's Local Plan 2013 to 2033 (Adopted 2020), 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.

### Infiltration

The Applicant is proposing an infiltration based surface water drainage design on the basis of national mapping.

The Applicant's other submissions through their updated Flood Risk Assessment (dated July 2023) on page 6 and their Soils and Agricultural Quality Report (Ref: 2022/2 dated: 28 August 2022) indicate that the soil types across the site are variable. Both documents also note the risks of high groundwater for subgrade 3a. Where it is indicated that the "water table remains close to the land surface for much of the year".

The soils report states "Land is dominantly of subgrade 3a agricultural quality, with smaller areas of grade 2, subgrade 3b and grade 4" (Page 3). It then goes on to classify 37.6ha of the 55.5ha site as subgrade 3a which is described as "This land includes areas with moderately high topsoil clay content and poor drainage (Soil Wetness Class IV), and areas with high topsoil clay content and imperfect drainage (Soil Wetness Class III)" (Page 8).

Whilst we are without infiltration testing the submitted documentation suggests that the infiltration based design approach may not be possible for the entirety of the site. The applicant if they wish to pursue with an infiltration based design must submit at this stage infiltration tests, undertaken in strict accordance with BRE Digest 365 Soakaway

Design (2016) must be undertaken in order to demonstrate whether infiltration is a viable means of surface water drainage management on this site. A representative number of tests must be conducted in

order to provide adequate coverage of the site, with particular focus placed on the locations and depths of potential infiltration devices.

#### Calculations

The greenfield runoff calculations have also utilised the same soil type of 4 which can provide a higher allowed runoff rate despite the sites being mapped nationally as having different soil types. The soil types will need to be updated as well.

#### Other matters

Devon County Council do not allow siting of above ground sustainable drainage systems in fluvial Flood Zones 2 or 3 which appears to be the proposal particularly for the western areas of the development. As it would be expected that these areas could be full of fluvial floodwater prior to runoff entering them thereby the surface water drainage design would be undermined, see our Position Statement available at:

[www.devon.gov.uk/floodriskmanagement/planning-and-development/sustainable-drainage/](http://www.devon.gov.uk/floodriskmanagement/planning-and-development/sustainable-drainage/)

In steeper parts of the site erosion control through cross contour swales should be considered without which the proposed swales on the edges of the development site could find themselves infilled with material and then the potential for increased sedimentation of the Spratford Stream and tributaries.

#### **Natural England – 26 January 2023**

##### Designated sites

Details of designated sites can be found at [www.magic.gov.uk](http://www.magic.gov.uk) Based on the plans submitted, the proposal does not appear to trigger any relevant thresholds within Natural England's designated sites Impact Risk Zones<sup>1</sup> (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.

#### **Blackdown Hills AONB Partnership – 16 January 2023**

No comment.

#### **Devon Wildlife Trust – 17 Jan 2023**

We object to the planning application because we consider that the proposals do not provide sufficient evidence to satisfy the requirements relating to biodiversity in paragraphs 174d and 175d of the National Planning Policy Framework or the requirements of paragraph 99 of ODPM Circular 06/2005 Biodiversity and Geological Conservation. These requirements are reproduced at the end of this letter.

The comments provided below are based on a Preliminary Ecological Appraisal (November 2022), Breeding Bird Survey report (September 2022) and Bat Activity Survey report (November 2022) produced by Ecology Resources. We consider that insufficient evidence has been provided because -

1. Further protected species surveys relating to great crested newts have been recommended by the Preliminary Ecological Appraisal (PEA), but are not included within the application. The bird survey was not carried out within the survey period recommended in the PEA and the potential impact of the scheme on skylark requires particular consideration as the habitats present on site are considered likely to support this Species of Principal Importance.

The report for the site considers the habitats present to be of moderate value to commuting/foraging bats, however the survey effort does not conform to BCT survey guidelines (2016) for this habitat type. Full survey data for all protected species is required prior to determining an application for the site.

2. The report provides suggestions for mitigation and compensation measures which 'can' be undertaken to offset the impacts of the proposals. This does not adequately assess the impact of the scheme on protected habitats or species identified within the site. The report must provide quantified details of how each habitat and protected species which has been identified within the site (using up-to-date survey information) will be affected by the proposed works, with detailed proposals for how these impacts will be adequately mitigated / compensated.



3. We would like to see the following information included within the Biodiversity Enhancement Proposal report:

- a) Restoration - detailed proposals for restoration of the site should be included within any planning application. This should include a 10 year management plan as a minimum.
- b) Restoration ecologist - the success of the restoration proposals will depend on the skills and knowledge of the ecologist employed to oversee the preparation works. An ecologist with proven experience in this area should be utilised.
- c) Grassland preparation works - Restoration should include stripping nutrients, potentially over two seasons, and may include the addition of nitrate to help remove phosphorus. The use of over-sowing or tilling should be considered for individual areas. Over-sowing is generally better for weed limitation. No spraying should be carried out.
- d) Grassland seeding - large areas of habitat creation should consider variations of spring, summer and autumn flowerings and different habitats (damp, acid, neutral etc.). Multiple fields should be set aside to suit each habitat type. Seed should be harvested (preferably locally). If this is not feasible seed should be sourced from a reputable wildflower seed merchant e.g. Emorsgate for each habitat/timing.
- e) Grassland management - management activities should be implemented to allow minimum 3 month resting-up period for each habitat in appropriate season (i.e. spring, summer, autumn). Solar panels/frames/wiring should be designed to allow grazing stock to access site without damage to equipment. This is usually easier with sheep, but cattle should be considered where possible. Graze extensively with no inputs of fertilizer/manure. Do not supplementary feed (except minerals). If grazing is not feasible, grassland should be cut as a hay crop (single cut only in one season) with arisings removed. Aftermath and winter grazing should be implemented where possible. No spraying should be carried out.
- f) Hedges (and copses) - should be planted (using species-rich mix) and managed to become mature, wide features with a minimum height of 3m. Trees should be selected every 10m to remain uncut and allowed to develop into standards. Where required, cutting should be carried out on rotation every three years. Gaps in existing hedgerow habitat should be planted to create a robust network. Consider hedge-laying and/or coppicing to enhance existing hedges - this must be done on rotation maintaining landscape connectivity.
- g) Wetlands – should be created where opportunities exist, for example riparian damp habitats.
- h) Heathland – consideration of creation of this habitat type should be given where appropriate. This habitat type develops well alongside solar panels. This habitat would require grazing.
- i) Overall design – links to further habitat connectivity throughout the wider landscape should be provided wherever possible through the creation of new and buffering of existing habitats.
- j) Security fencing must be designed to allow the continued movement through the landscape of larger mammals such as deer and badgers. Gaps should be left under security fences to provide access for small animals. A plan detailing the location and extent of security fencing must be submitted as part of the application.

For the reasons given above, we object to the planning application and recommend that it is refused.

### **CPRE – 7 February 2023**

CPRE Devon objects because the harm caused by the proposal is not outweighed by the benefits.

1. The proposal would industrialise six parcels of land consisting of 60.37ha (151 acres) of farmland for 40 years. There would be approximately 138,000 solar panels, 18 transformers, about 3km of tracks of unspecified construction, all surrounded by about 3km of fencing with approximately 170 CCTV cameras. The proposal is sited in LCT-3E (Lowland Plains) which has a high sensitivity to very large (>15ha) solar farms (see Landscape Implications of Solar PV Proposals – Supplementary Planning Document, February 2016).
2. Section 3 of the Planning Design and Access Statement list four other solar farms "*proposed or operational, located in the local authority as follows*". The list contains incorrect information about the areas of the solar farms and is incomplete, there being at least seven other large solar farms in Mid Devon and several small solar farms.
3. The applicant has ignored the cumulative impact of the proposal with the other solar farms. The number of solar farms is turning the landscape into a solar farm landscape. This is becoming more

and more apparent when driving around the district. The proposal would have an unacceptable adverse impact on the landscape.

4. The report examining the soil quality and its Agricultural Land Classification (ALC) shows that 81% of the land is grades 2 and 3a, which is Best and Most Versatile (BMV) land. The government is currently updating the energy National Policy Statements, which were published in 2011 (these draft National Policy Statements are referenced by the applicant in the Planning Design and Access Statement). The draft National Policy Statement for Renewable Energy Infrastructure (EN-3) includes Solar PV for the first time. Draft EN-3 (paragraphs 2.48.13 to 2.48-15) states that:

*Where possible, ground mounted Solar PV projects should utilise previously developed land, brownfield land, contaminated land, industrial land, or agricultural land preferably of classification 3b, 4, and 5 (avoiding the use of "Best and Most Versatile" cropland where possible). It is likely that applicants' developments may use some agricultural land, however applicants should explain their choice of site, noting the preference for development to be on brownfield and non-agricultural land.*

In a Written Ministerial Statement (WMS) dated 25 March 2015, Eric Pickles, Secretary of State, Communities and Local Government, stated that, with regard to solar power generation "*In light of these concerns we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence*".

In appeal reference APP/U1105/W/16/3144419 for a solar farm at Shepherds Farm, Clyst St Mary in East Devon, the Inspector referenced the WMS statement, noting that most of the site was BMV. He found no "*compelling evidence*" in the benefits of the scheme that outweighed the loss of BMV and dismissed the appeal.

The proposal clearly conflicts with NPPF-2012 which at paragraph 174 states:

*Planning policies and decisions should contribute to and enhance the natural and local environment by: 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, and of trees and woodland.*

and:

*Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.*

PPG Paragraph: 013 Reference ID: 5-013-20150327 Revision date: 27 03 2015 states:

*Particular factors a local planning authority will need to consider include:*

*encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land.*

The applicant has provided no compelling evidence why the proposal is on a site, 81% of which is BMV land. He has not shown why the proposal could not be sited on previously developed or non-agricultural land. On these grounds alone the proposal should be refused planning permission.

5. With regard to the CO2 emissions savings, it is noted that the government has major concerns in this area. The government is clearly concerned about the sustainability of renewable energy schemes as it states in the draft Overarching National Policy Statement for Energy (EN-1) that:

*All proposals for energy infrastructure projects should include a carbon assessment as part of their ES. This should include:*

- *A whole life carbon assessment showing construction, operational and decommissioning carbon impacts*
- *Measurement of embodied carbon impact from the construction stages*

The only statement that the applicant makes concerning CO2 emissions savings is in the Planning Design and Access Statement where it is stated that there will be "*an anticipated CO2 displacement of around 11,210 tonnes per annum*". No details are provided as to how such a precise figure has been obtained, but clearly the applicant has not performed a whole life carbon assessment.

6. The proposal conflicts with Policies DM2, S1 and S9 of the Mid Devon Local Plan 2013 - 2033, with NPPF-2021 and with the draft National Policy Statements. The application should be refused.

## REPRESENTATIONS

### Advertisement of Application:

*This planning application has been advertised by means of a site notice erected by a Mid Devon District Council Officer, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016).*

6 objections have been received. The main points including:

1. Brown's Bridge Lane is a narrow, single track and is the only means of access to residential properties. Any damage to the railway bridge during construction prevents access to homes (including emergency access).
2. Willand Road has a weight limit and narrow bridges out of Willand. Loaded lorries will exceed the weight limit.
3. 81% of the land is very good or moderate quality agricultural land. Higher regard should be given to its retention as land for growing food.
4. Grazing of sheep is not an effective and efficient use of the land.
5. The scale of development will lead to fragmentation of habitats including deer, badgers and nesting birds such as skylarks. Mitigation measures lack detail on maintenance and enhanced of the lifetime of the solar farm.
6. Some panels are identified in areas at high risk of flooding (AECOM report). Such areas are likely to enlarge with wetter winters. This is a concern for access to maintain equipment.
7. This could set a precedent for more solar farms in the area leading to over industrialization; there is a cumulative impact to consider.
8. The large scale of the development has a visually unacceptable impact on the landscape character of the area.
9. The visual impact of the proposed scheme is significant with a wide panorama that cannot be mitigated by screening proposals.
10. 40 years is not temporary. Have further land options in the area been declared?
11. The Statement of Community involvement is misleading with actual consultation being inadequate, highlighted by the poor response rate.
12. The proposal will not enhance environmental amenity for the local community and will certainly destroy wildlife habitats.
13. Road access is inadequate for the size and number of vehicles.
14. The cost of brownfield land making its use for solar farm development is not a valid argument for the loss of grade 2 or 3a land.
15. Alternative locations should be considered for solar panels (including public buildings) without occupying valuable agricultural land.

4 statements of support. The main points including:

1. Full support as a neighbouring business;
2. This large clean energy generation site will help meet carbon saving targets;
3. The site has the potential to produce the equivalent power of 16,000 homes;
4. Grazing as part of traditional meadow management can be maintained for the benefit of food production and biodiversity;
5. The solar farm is completely reversible at the end of its life.
6. We need to respond to this climate emergency.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1. Materials, considerations and principle of development**
- 2. Landscape and visual impact**
- 3. Site selection, loss of agricultural land and renewable energy benefits**
- 4. Biodiversity**
- 5. Heritage**
- 6. Highway impacts**
- 7. Flood risk and surface water drainage**
- 8. Residential amenity**
- 9. Pollution, air quality and waste management**
- 10. Economic benefits**
- 11. Other matters raised**
- 12. Planning balance**

### **1. Materials, considerations and principle of development**

1.1. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to have regard to the policies and proposals in the National Planning Policy Framework, the Development Plan and to all other material considerations. Determination of the application must be made in accordance with the plan unless material considerations indicate otherwise.

1.2. Proposals for development of solar farms are assessed against national and local planning policies (and guidance) including National Planning Policy Statements (NPS), National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) and the statutory Development Plan for Mid Devon District Council.

1.3. The principle of renewable/low carbon development is supported in the National Planning Policy Framework (NPPF). Paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate. It goes on to say that planning should help to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure.

1.4. The Government expects future low cost, net zero consistent electricity to be made up of on shore and offshore wind and solar, complemented by technologies such as nuclear.

1.5. Renewables accounted for 43% of all UK electricity generation, up from 7 per cent in 2010, driven by the deployment of wind, solar and biomass (pv Magazine, 29.07.21). Electricity demand is predicted to double in the UK by 2050, driven in part by the electrification of vehicles and increased use of clean electricity replacing gas for heating. The Government has set a target to cut the 1990 UK level of greenhouse gas emissions by 100% by 2050.

1.6. More widely, the UK is committed to meeting a target of net-zero by or before 2050. This means that across the UK, emissions of Green House Gas for all sources will have to reduce from the current figure of 426.5 million tonnes carbon dioxide equivalent (Department for Business, Energy & Industrial Strategy, Feb 2023). The UK Government industrial and green growth strategies have made further pledges to invest in green growth low carbon infrastructure and investment in efficiency.

1.7. In 2016 Mid Devon adopted the supplementary planning document Solar PV development in the landscape providing guidance on key landscape issues and sensitivities, good siting and design.

1.8. At a full Council Meeting on 21 February 2019, Devon County Council (DCC) agreed to declare a 'Climate Emergency' and to initiate a county-wide partnership to ensure Devon becomes Carbon Neutral by 2050. This means that the total carbon emitted by the county as a whole will need to be balanced out through an equivalent amount of carbon savings.

1.9. Mid Devon District Council signed the Devon Climate Emergency Pledge on 26th June 2019 and aims to become carbon neutral by 2030 (Net Zero greenhouse gas emissions).

1.10. In February 2023 Mid Devon adopted the 'Non-Statutory Interim Planning Policy Statement: Climate Emergency'. The Statement states that:

"Tackling climate change is a material consideration to the planning process, to which significant weight should be attached.... Due to the urgent need for action and the potential impact on delivery of housing and associated infrastructure, the Council is placing preparation for, and response to climate change at the forefront of its corporate agenda. This will ensure that environmental sustainability is considered alongside social and economic sustainability. This will, of necessity, require changes to existing planning policies, which will be explored during the preparation of Plan Mid Devon. The Plan will cover the period to 2043, set within a vision that looks ahead to 2053' (para's 1.3 & 3.2).

1.11. The Mid Devon Climate Strategy 2020-2024 clearly identifies the role that the planning system can lead in mitigating, and adapting to, climate change. The strategy states (Pg 10, bullet 3) that MDDC will strategically address the climate crisis by "allowing renewable energy development in suitable locations and at an appropriate scale in accordance with planning policies and guidance".

1.12. The National Planning Policy Framework talks generally about renewables within the context of planning for climate change and makes no specific reference to solar farms. It favours sustainable energy systems as long as any impacts are (or can be) made acceptable, and states that local planning authorities should approach these as part of a positive strategy for tackling climate change.

1.13. Paragraph 158 of the National Planning Policy Framework 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.

1.14. Despite paragraph 158 not requiring applicant's to demonstrate an overall need for renewable or low carbon development, the applicant has submitted a 'Statement of Need' document to:

'Demonstrate the important contribution the Proposed Development will make to the three important national energy policy aims:

- Net-Zero and the importance of urgently deploying low-carbon generation assets at scale;
- Security of supply (geographically and technologically diverse supplies); and
- Affordability and reducing exposure to volatile international markets (para 2.2).

The Statement of Need also considers more local energy needs and in particular the contribution which would be made by this application to the published decarbonisation plans from Devon County Council and Mid Devon District Council.

1.15. All planning proposals and decisions should contribute and enhance the natural and local environment. National Planning Policy Framework paragraphs 174a and 174b require proposals to:

a) protect and enhance the valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognise 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, and of trees and woodland.

1.16. The NPPG (Renewable and Low Carbon Energy, updated Aug 2023) outlines guidance on the specific planning considerations that relate to large scale ground-mounted solar PV farms. It states that one consideration amongst others should be whether land is being used effectively; recommending that large scale solar farms are focused on previously developed and non-agricultural land.

1.17. There are several local policies that are relevant to the consideration of a solar farm application. Those being policies S1, S9 and DM2 of the Mid Devon Local Plan 2013 - 2033.

1.18. Policy S1 (Sustainable Development Priorities) states that: *'Meeting the challenge of climate change by supporting a low carbon future, energy efficiency, increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources. Encourage the effective use of land, taking into account the economic and other benefits of the best and most versatile agricultural land'*.

1.19. Policy S9 (Environment) states that, *'Development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through... (b) preserving the quality and productivity of the best and most versatile agricultural land wherever possible...[and] (d) renewable energy development in locations where there is an acceptable local impact, including visual, on nearby residents, landscape character and wildlife, balanced with the wider sustainability benefits of renewable energy'*.

1.20. The site is within the countryside and is subject to Policy S14 (Countryside) which requires that development preserves and where possible enhances the character, appearance and biodiversity of the countryside.

1.21. Policy DM2 (Renewable and low carbon energy) details renewable energy criteria which states:

*The benefits of renewable and low carbon energy development will be weighed against its impact. Proposals 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 within the parish or adjoining parishes. Proposals must demonstrate that impacts are or can be made acceptable in relation to:*

- a) Landscape character and the character and setting of heritage assets;*
- b) Environmental amenity of nearby properties and the wider locality;*
- c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a); and*
- d) Biodiversity (avoiding habitat fragmentation).*

1.22. Paragraphs 4.6- 4.7 go on to add guidance stating:

Policy DM2 seeks to maximise renewable and low carbon energy while ensuring that adverse impacts are addressed satisfactorily, including cumulative impacts. Examples of development considered under this policy include... solar installations.

These developments, especially when they are of a commercial scale, have the potential to cause significant harm through degradation of landscape character or heritage, impact to local residents and loss of productive agricultural land and biodiversity. Development proposals will be required to demonstrate that impacts are or can be made acceptable, through supporting studies and surveys as appropriate. As a starting point, development proposals should have reference to the Mid Devon Landscape Character Assessment (2011), the Landscape Sensitivity Study (2013) and the Government's Planning Practice Guidance for Renewable and Low Carbon Energy (July 2013). Depending on the proposal, Policies DM4 (pollution), DM25 (heritage assets), DM27 (protected landscapes) and DM28 (other protected sites) may also have a bearing on whether planning permission is granted.

1.22. The approach in the National Planning Policy Framework and local planning policy is supportive to the principle of solar energy developments provided that the environmental impacts can be appropriately managed.

1.23. A key environmental benefit is that this proposal has capacity to generate up to 49.9 MW of renewable energy, which the applicant states could provide approximately enough

energy to power over 16,581 homes and displace up to 11,210 metric tonnes of CO2 per annum (D&A Statement, para 4.1).

1.24. This in-principle support and the environmental benefit has to be weighed against any environmental and other impacts of the proposal in a balancing exercise. The balancing exercise is a matter of planning judgement.

1.25. Paragraph 11 requires the decision maker to grant planning permission unless having undertaken a balancing exercise there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.

1.26. The "Planning Balance" is undertaken further below, but before doing so a wider assessment of the proposal has been undertaken against all relevant considerations to determine if there are impacts, before moving to consider if these impacts are adverse and would 'significantly and demonstrably' outweigh the benefits of the proposal in the planning balance.

## **2. Landscape and visual impact**

2.1. A core principle of the National Planning Policy Framework (para 8) is to protect and enhance our natural, built and historic environment. Paragraph 174 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. National guidance is supportive of high quality, well designed, beautiful places. This is reflected in development plan policies. Policy S1 seeks good sustainable design that respects local character, heritage and surroundings and creates safe and accessible environments. Policy S9 requires high quality sustainable design which reinforces the character and distinctiveness of Mid Devon's historic built environment, mitigates and adapts to climate change and creates attractive places. Policy DM1 requires high quality design demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area.

2.2. The site does not form part of a designated landscape; the nearest being the Blackdown AONB which is approximately 5.4km (3.4miles) to the east. However, the Framework also requires the intrinsic character and beauty of the countryside to be recognised when assessing development proposals.

2.3. The Landscape Character Assessment for Mid Devon (2011) identifies the site as falling within LCT-3E Lowland Plains which has a high sensitivity to very large (>15ha) solar farms (see Landscape Implications of Solar PV Proposals – Supplementary Planning Document, February 2016).

2.4. The proposal would retain the original field pattern in situ, bolstered by additional planting (Landscape and Visual Impact Assessment – Addendum II) with the exception of 2x5m sections of hedgerow for internal and external access. These areas have been identified as of low value by the applicants' Arboricultural consultant with compensatory planting being provided elsewhere within the retained field enclosures.

2.5. Whilst the Local Planning Authority accept that the change to the landscape is reversible and that the underlying land would not change and, when the scheme is removed, its former character would broadly return, the Local Planning Authority's landscape consultant confirms that the change from a number of agricultural fields to a solar farm represents a 'major adverse' (para 23, Landscape Consultation Response, 13 March 2023). This is confirmed in Year 1 of the landscape effects summary (Table 7-3, Landscape and Visual Impact Assessment (Dec 2022) but reducing to moderate by Year 10 (Table 7.5, Landscape and Visual Impact Assessment). The reduction in the visual impact is a result of the proposed planting becoming established and is generally agreed by the Local Planning Authority's landscape consultant.

2.6. The Landscape and Visual Impact Assessment (Dec 2022) has given some consideration to the visual impact of the development during the winter months (para 2.7). Acknowledging that the field assessment work was undertaken during June 2022, the Yr 1 construction and operation phase (Table 7-1) has been assessed for a winter period, when leaves are not on trees and new planting is immature. Yr 10 assumes new planting has established.

2.7. The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively with effective screening and the land topography being used to limit the zone of visual influence. Although solar farms often cause changes to the landscape and some visual impact, their influence should be minimised as far as possible.

2.8. The Landscape and Visual Impact Assessment (Dec 2022) describes the baseline qualities and current condition of local landscape character. It identifies several locations (visual receptor viewpoints) from which the site can be viewed. The Landscape and Visual Impact Assessment also identifies steps that could be taken to mitigate against any harm that would likely to arise from the implementation of the development including enhanced landscape planting. An Arboricultural Report (October 2022) has also been submitted and together outline tree protection, proposed planting and ongoing maintenance and management of the existing trees and proposed landscaping. At the request of Officers the submission of the Landscape and Visual Impact Assessment Addendum II provides an enhanced landscape planting strategy and planting plans.

2.9. The landscape consists of low-lying gently undulating agricultural fields with trees and hedgerows, described by the Council's landscape consultant as, "clearly a very attractive landscape that is valued by those who live around it."

2.10. For the duration of the development (40 years) the proposal would clearly alter the character of the site. However, there is no public access across the site (no PRow), which is a positive advantage, and due to the low lying nature of the site, and the retention of the existing hedgerows, trees and proposed landscaping, the development would be screened from most views.

2.11. Proposed mitigation measures include structural planting. In total some 300m of new hedgerow (with and without trees) is proposed and 0.8 hectares (2 acres) of new native species broadleaved and wet woodland is proposed. Such planting would be a long-term benefit. The proposed Development has been designed to respect the character of the landscape and use the strong field boundaries to integrate the development into the landscape as far as practicable. Existing landscape features would be protected and strengthened. All trees and hedgerows on or around the Site would be retained with the exception of 2x 5m sections of hedgerow providing access. The applicants' arboricultural consultant considers these areas to be low value. Compensatory planting is proposed to fill gaps in the existing boundary planting, re-enforcing the value of the retained field enclosures.

2.12. Key landscaping proposals outlined in the planning statement include:

- Establishing flora margins/buffer strips along field boundaries, between the boundary hedge/vegetation and the proposed fence;
- Establish new native grassland beneath the panels;
- Retaining all existing woodland, trees and hedgerows (and field margins generally) within and adjacent to the Site into the surrounding landscape as far as practicable; and

2.13. As detailed at para 2.5 (above) and at para 55 of the LPAs landscape consultant's report (March 2023), concerns were raised regarding the landscape scheme being insufficient and that a finer grain of detail on the location, amount and species of screen planting was required; this to avoid relying on planning conditions. A Landscape Visual Impact Assessment - Addendum was subsequently submitted (April and October 2023) supported by Planting Plans (1-17 dated July 2023) confirming the location, extent and species of planting. The LPAs landscape consultant has reviewed the new and revised documentation and confirmed that it is acceptable. Nonetheless, irrespective of the level of landscape planting as more solar installations increase in the area the cumulative impact of



their harm increases. There are two solar installations within close proximity to this application (Applic No. 14/01949/MFUL) at 0.2 of a mile from this application site and (Application 17/00788NMA) at 0.3 of a mile. Within a broader 5 mile range of assessment there are a further 7 applications 19/01619/MFUL & 23/01251/MFUL: approx. 4 miles; 15/01511/MFUL: approx. 3 miles; 14/01984/MFUL/NMA: approx. 5.5 miles; 12/00412/MFUL: approx. 4.8 miles; 12/01350/MFUL: 2.5 miles and 10/01930/MFUL: approx. 3 miles. Whilst this proposal would sit in close geographic proximity to the 12ha installation of application 14/01949/MFUL and 12 ha installation of 17/00788/NMA, this application remains well screened from public view and from each of those installations. On this basis, the proposed installation is unlikely to be 'read' in association with the existing and the cumulative impact will be marginal. This is acknowledged by the Local Planning Authority's landscape consultant who confirms that 'I can accept the overall conclusion that there will not be any significant adverse cumulative effects from this scheme'.

2.14. On submission of the Revised Landscape and Visual Impact Assessment – Addendum and supporting Planting Plans (1-17) the LPA's landscape consultant considers that the proposed scheme now provides a level of detail that demonstrates that the visual impact and cumulative effect with existing solar farms within the study area has been sufficiently reduced. The existing vegetation and new planting provides a high degree of physical and visual enclosure. As such, the Local Planning Authority's landscape consultant has no further objection to the application.

2.15. From a landscape and visual perspective, taking the baseline conditions and proposed landscaping, Officers consider that the site is sited in a location that weighs in favour of the proposed development as regards to the visual impact and cumulative effect of the development.

### **3. Site selection, loss of agricultural land and renewable energy benefit**

3.1. Section 5 of the Design & Access Statement outlines the site selection process and sequential test. The submitted Alternative Site Assessment report (May 2023) provides further detail in terms of the sequential test.

3.2. The applicant's criteria for site selection included:

- an available and viable grid connection with the capability of importing and exporting the power generated;
- a site which compares favourably in planning terms; and
- a willing landowner.

3.3. The first consideration of the site selection process is electricity grid availability and a viable connection. The initial search looked for sites within 3km of the 132kV overhead line and 21 sites were identified. Letters were issued to the landowners and four landowners responded with interest. Following further analysis the applicant concluded that the preferred solution would be to connect into the Tiverton Junction Substation, off Willand Road. Sites up to 3km from the connection point would be feasible. The Local Planning Authority's landscape consultant requested that this be increased to 5km. The revised Alternative Site Assessment report (v2), para 2.8 confirms the inclusion of this request.

3.4. The application site was chosen because it is free of statutory ecological, landscape and historic designations. Part of the western site does however contain part of an unidentified Local Wildlife Site (designated for coastal and floodplain grazing). The site is also relatively flat which enables the delivery of an optimal PV array layout.

3.5. The application is accompanied by an Agricultural Land Classification Report which identifies that the proposed Site is characterised primarily as Grade 3a (good quality agricultural) land with pockets of Grade 2 (very good agricultural) and 3b (moderate quality agricultural) land within the central and western parts of the Site. Some areas of Grade 4

(poor agricultural) land are shown within the western part of the Site. This amounts to 81% of the site being within BMV (13% Grade 2 & 68% 3a). The applicant has stated that this is an unavoidable outcome on the basis of the site selection process. It should be noted that due to the relatively high amount of BMV land within Mid Devon the temporary loss of 45ha of the BMV land would amount to 0.4% loss of BMV land across the district.

3.6. Part of the western site is located within Flood Zones 2 and 3. Annex 3 of the National Planning Policy Framework identifies solar farms as 'essential infrastructure'. Table 2 Flood Risk Vulnerability and Flood Zone 'Incompatibility' of the National Planning Policy Framework identifies that Essential Infrastructure can be located within Flood Zones 2 and 3, with the Sequential Test required for Flood Zones 2 and 3 and the Exception Test required for development within Flood Zone 3. In terms of the Sequential Test, the Applicant has assessed whether it would be possible to deliver a solar farm at the Site without developing within Flood Zones 2 and 3; with development only in Flood Zone 1. This assessment has shown that the reduction in land would result in an unviable development.

3.7. Officers consider that the proposed site selection process has been logically and rationally undertaken by the applicant. A conclusion also supported by the Local Planning Authority's landscape consultant. The site selection process weighs in favour of the application.

3.8. Despite the National Planning Policy Framework's general support for renewable schemes and its recognition of their environmental and economic benefits, there is also recognition of the value of the best and most versatile (BMV) agricultural land. Para.174 of the National Planning Policy Framework (2021 revision) states that "policies and decisions should contribute to and enhance the natural and local environment by "...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 2015 Written Ministerial Statement, reinforces this and wished to make it "clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence".

3.9. The loss of 81% of BMV weighs against the development. However, as noted above this would only amount to 0.4% of MDDC's BMV agricultural land. It should also be stressed that this would be for a temporary period albeit 40 years. After this time the land will be returned to its former state and be available for cultivation. Further, where a solar farm is installed on land which has been intensively farmed, it enables the ground underneath to recover, while providing income for the farming business. Solar farms also help regenerate soil quality, and so are helping to ensure the continued availability of high quality agricultural acreage for future generations. It should also be noted that it is planned to graze the land with sheep which will ensure the land is still in agricultural use and will aid in regenerating soil quality.

3.10. The land currently taken up by solar farms in the UK amounts to approximately 0.08% of the total land use. The UK government estimates that the country will need up 90GW of solar by 2050. This would amount to approximately 0.4-0.6% of UK land; which is less than that currently used for golf courses.

3.11. Whilst the temporary loss of BMV is not an overriding factor in the determination of a solar application, it is however a material consideration of significant weight. Case law from 2015 confirms that compelling evidence must be provided showing that the scheme's benefits are able to outweigh the loss of BMV land also confirmed in the more recent case (Lullington Solar Park Ltd v South Derbyshire District Council (APP/F1040/W/22/3313316) that added weight to the area of search and the ability to demonstrate that no suitable areas of poorer-quality land is available; this to be weighed in the planning balance.

## 4. Biodiversity

4.1. Policy S9 seeks the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape. Policy DM1 requires development to make a positive contribution to local character including any biodiversity assets. Policy DM26 requires major development proposals to demonstrate that green infrastructure will be incorporated within the site for biodiversity mitigation, resulting in a net gain in biodiversity, for flood and water resource management, and to provide green corridors to link the site to the wider GI network.

4.2. This application, on submission, was accompanied by a Preliminary Ecological Appraisal (PEA), a Breeding Bird Survey Report, Bat Activity Survey Report, Biodiversity Net Gain (BNG) Impact Assessment and Enhancement Plan, Biodiversity Metric 3 and a Hazel Dormouse Mitigation Plan. Following consultee responses, the PEA has been upgraded to an Ecological Impact Assessment (EIA) including enhanced bat activity surveys, breeding bird surveys, a Great Crested Newt survey and Hazel Dormouse assessment and mitigation plan.

4.3. The impact of solar farms on biodiversity is subject of ongoing research. However, the general consensus is that the installation of PV arrays on intensively farmed land is likely to benefit most species and deliver ecosystem services such as nutrient offsetting, carbon sequestration and flood attenuation.

4.4. The submitted EIA outlines that in terms of wildlife, the site and its numerous mature trees and hedgerows have the opportunity to support badgers (x3 setts found), roosting bats (moderate roosting potential), hazel dormouse, great crested newts (GCN) and water voles. The site also supports a variety of birds, including reed warbler, reed bunting and common whitethroat. There have been records of the presence of barn owl. Watercourses within the site boundary underwent a macroinvertebrate aquatic survey, which revealed no rare/scheduled invertebrate species within the surveyed streams. The upgraded EIA did not reveal the presence of GCNs.

4.5. The proposed biodiversity enhancement strategy allows for the establishment of wildflower strips along field boundaries and of species-rich grassland beneath and in between rows of solar panels. All existing woodland, trees and hedgerows will be retained; new hedgerow and scrub habitat will also be created at selected locations across the site (Planting Design Plans 1-17). The Ecological Impact Assessment and Planting Design Plans provide clear recommendations for avoidance, compensation and enhancement for the habitats / species on site.

4.6. The proposed development would provide opportunities to enhance green infrastructure and provide a biodiversity net gain ('BNG') through the provision of new hedgerows and trees, the creation of wildflower field margins, and modified grassland beneath the solar arrays. There is also scope for landscape, ecological and biodiversity benefits through the installation of barn owl boxes, bird nesting boxes, beehives, log piles, restoration of traditional field boundaries, and other hibernacula such as small buried rubble piles suitable for reptile species, amphibians and insect life. Although the panels would not allow the cultivation of the land for arable purposes the site would be retained as grassland which can be grazed by sheep.

4.7. The Local Planning Authority's consultant ecologist at DCC requested a revised BNG assessment and enhancement plan and matrix following the updated Ecological Impact Assessment and Planting plan (1-7). The BNG report confirms that the delivery of the proposed development would not only lead to negligible habitat losses but an enhanced range of habitats which will benefit existing local species through:

- Improved vegetation structure, richness and abundance across the site;
- Improved quality and quantity of roosting, foraging and nesting habitats across the site; and

- Enhanced connectivity across the site / landscape.

The BNG assessment confirms that 'it is genuinely believed that the development will have a positive, long-term impact on the ecology of the site'. The Metric calculations collaborate this; attributed to the planned habitat creation, management of the existing and newly created habitats, during and beyond establishment and their monitoring to ensure targets are met.

4.8. The BNG metric concludes that subject to the proposed enhancement and mitigation the development would achieve 107.9% habitat units, with 9.06% hedgerow units and 12.91% river units. The biodiversity net gains for a minimum period of 30 years (as requested by DCC Ecology) will be conditional upon planning consent (Condition 12).

4.9. Conditional upon planning consent is also a full Landscape and Ecology Management Plan and Construction Environmental Management Plan.

4.10. In conclusion the proposed development is considered to be in accordance with Local Plan Policies S9, DM1 & DM26. In acknowledgment of this and with the support of proposed Condition 5 (Construction Environmental Management Plan) and Condition 10 (Landscape and Ecological Management Plan) the proposed development is considered acceptable.

## **5. Impact on heritage assets**

5.1. Policy S1 of the Mid Devon Local Plan 2013 – 2033 seeks to conserve and enhance the historic environment through protection of heritage assets and by assessing the impact of new development on historic character. Policy S9 requires the protection of listed buildings, conservation areas, scheduled monuments and local heritage assets. Policy DM25 requires proposals likely to affect the significance of heritage assets to consider their significance, character and setting, and to examine opportunities to enhance them.

5.2. The application is accompanied by a Cultural Heritage Desk-Based Assessment and an Archaeological Geophysical Survey. The assessment is considered to be proportionate, as required by paragraph 195 of the National Planning Policy Framework, and more than sufficient to provide an accurate assessment of the impact of the proposed development upon the built historic environment in the surroundings of the site.

5.3. There are no designated heritage assets within the Site. However, there are 24 listed buildings within 1 km of the Site boundary. Two of these are listed at Grade I: Moorstone Barton 610m south of the Site, and the Parish Church of St Mary the Virgin 850m to the east. The nearest Grade II listed building is the Bridge at 030108 (Burn Rew Bridge), approximately 180m north-north-east of the north-eastern corner of the smallest part of the Site.

5.4. The nearest conservation areas are the Willand Conservation Area, approximately 750m east of the Site boundary, and the Halberton Conservation Area, approximately 1.5 km to the north-west. The Grand Western Canal is a linear conservation area, which comes within 1.5km of the northernmost part of the Site, a little to the east of Halberton.

5.5. There are 183 non-designated heritage assets within 1km of the Site in the Devon Historic Environment Record (HER), and two non-designated archaeological records within the Site. There is potential for archaeological remains to be present within the Site.

5.6. Officers and the Council's heritage consultant have visited the site and the nearest designated heritage assets. In summary, the heritage consultant has concluded that the Site cannot be considered to form part of the immediate or intermediate setting of any of the designated heritage assets. To ensure a comprehensive assessment, however, the Site was considered as a part of the wider setting of each asset. It was found to make only a minimal contribution to the significance of some assets as part of the general landscape surroundings, and in several cases it was found to make no contribution to significance.

5.7. Moorstone Barton is listed at Grade I (NHLE 1306617) for its exceptional historic and architectural interest as a farmhouse with fourteenth-century origins, associated with a local gentry family who were prominent in the fifteenth century. There are also associated Grade II range of barns dating from the 19th century. The elevated position of Moorstone Barton could potentially provide a view north towards the site. However, there is a group of substantial modern farm buildings on the opposite side of the road that block all intervisibility between the site and these listed buildings. There is no recorded historical connection between the Site and Moorstone Barton, and no current functional connection. The distance between the assets and the Site, and lack of intervisibility mean that the wider setting makes no contribution to the significance of the heritage asset, except as part of the general landscape surroundings. It is therefore considered that the proposed solar farm would have no impact on the significance of the designated heritage assets at Moorstone Barton.

5.8. There are also a number of listed buildings within Brithem Bottom. The lack of functional connection to the listed buildings, the distance from the settlement, and the lack of intervisibility mean that the Site makes no contribution to the significance of these heritage assets as part of their setting. Therefore the proposed solar farm would have no impact on the significance of the designated heritage assets at Brithem Bottom.

5.9. As regards to the nearest conservation areas, the distance and lack of intervisibility between the Site and Halberton Conservation Area indicates that the Site cannot be considered to form part of the setting of the Halberton Conservation Area; the proposed development would have no impact on the significance of the designated Halberton Conservation Area heritage asset. As regards to the Grand Western Canal Conservation Area, there is no recorded or current functional connection between the Site and the canal. The Site forms no part of the canal's setting. The Site is also too distant for any meaningful views to be obtained. The proposed development would cause no harm to the significance of the Grand Western Canal Conservation Area. Finally, the physical and psychological barriers presented by the motorway and railway line, and the distance and lack of intervisibility between the Site and the Willand Conservation Area mean that the proposed solar farm would not form part of the setting of the Willand Conservation Area, the Grade I-listed church, or any of the other designated and non-designated heritage assets in the Willand Conservation Area. The proposed development would therefore have no impact on the significance of these designated heritage assets.

5.10. Burn Rew Bridge is Grade II and the closest listed building to the site at some 175m. Constructed as part of the Bristol and Exeter Railway it was designed by Isambard Kingdom Brunel and opened in 1844. However, there is no meaningful views between the bridge and the Site because of intervening woodland, trees and a hedgerow. There is no recorded or current functional connection between the Site and the listed bridge(s), and the site forms no part of the railway's setting.

5.11. As regards to archaeology, the applicant has undertaken intrusive scheme of archaeological field work on the land since March 2023 following an agreed Written Statement of Investigation (WSI), in consultation with DCC archaeology. The trenching has been concluded but the WSI, setting out the programme of archaeological work to be undertaken in mitigation for the loss of heritage assets, is to be completed for sign off by DCC archaeology. On this basis, a planning condition for the completion of works is recommended by DCC archaeology. Conditional upon planning consent, the proposed development is considered to be in accordance with the Mid Devon Local Plan 2013 – 2033 policies S1, S9, DM1 & DM25 and guidance within the National Planning Policy Framework and HE guidance.

## **6. Highway safety and parking**

6.1. Policy S1 seeks good sustainable design that respects local character, heritage and surroundings and creates safe and accessible environments. Policy S8 requires development and transport planning to be coordinated to improve accessibility for the whole community and promote the use of sustainable modes of transport. Policy DM1 requires high quality design demonstrating a clear understanding of the characteristics of the site including safe and accessible places. Policy DM3 requires safe access to the transport network.

6.2. The proposal is a renewable energy project which in principle is supported by national and local planning policies including Local Plan policy DM2 due to the benefits it would deliver in reducing greenhouse gas emissions. The Highway Authority as a statutory consultee have confirmed that, subject to the submission of a Construction Management Plan and off-site highway works to provide a number of passing places the proposal will not have an unacceptable impact on the local highway network. The Highway Authority has consulted the National Highway Historical Railways Estate regarding the weight and length of the vehicles travelling over Browns Bridge Lane, bridge. The National Highway Historical Railways Estate have raised no objection. On this basis, the proposal is considered acceptable.

## **7. Flood risk and surface water drainage**

7.1. Policy S9 requires the provision of measures to reduce the risk of flooding to life and property; requiring sustainable drainage systems including provisions for future maintenance; guiding development to locations of lowest flood risk; and, avoiding an increase in flood risk elsewhere. Policy DM1 requires appropriate drainage including Sustainable Drainage Systems (SUDS) and arrangements for future maintenance.

7.2. As statutory consultees the Lead Flood Authority (LLFA) and the Environment Agency have provided comment. Initial concerns from the LLFA related to a lack of detail informing the proposed sustainable urban drainage system (SUDs). Additional information was required on the level of infiltration based on soil types, green-field runoff rates based on soil types, and the siting of SUDs within flood zones 2 and 3. The EA were principally concerned with the appropriateness of siting panels in Flood Zone 3. Detailed discussions have subsequently taken place both with the LLFA and the Environment Agency. The Environment Agency are now able to support the proposed development.

7.3. The LLFA however, have had outstanding concerns associated with the drainage strategy; chiefly the proposed location of the swales within the flood plain. The submission of revised drawing (LCS077-PLE-01\_rev12), following detailed discussion between the applicant and the LLFA, secures the location of the proposed swales (outside of the flood plain) but results in an illustrative layout for the proposed solar panels. As detailed above, the Rochdale approach establishes the principle of development zones (within the red line of the application area) with the final precise siting of the solar panels, inverters, batteries, DNO Substation and Customer Substation being secured by condition. On the basis that the final precise location of the solar panels and their apparatus cannot be confirmed at the time of writing this report, that the Rochdale approach has been established, through Case Law, as an acceptable approach and the LLFA have withdrawn their objection, conditional upon the grant of planning consent, the proposal is considered acceptable.

## **8. Residential amenity**

8.1. Policy DM1 (e) of the Mid Devon Local Plan 2013 – 2033 states that proposals should not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.

8.2. The application is accompanied by a Landscape Visual Impact Assessment (LVIA) which addresses impacts on the nearest residential properties and by a Glint & Glare Report and Noise Report.

8.3. The nearest residential properties to the site (excluding access points) are Fishers Bridge Farm (120m), Doctor's Farm (200m), Burn Rew Farm (115m), Langarra Park (approximately 7m to nearest pitch boundaries) and Deanshill Farm (75m).

8.4. The LVIA Appendix F provides additional details on the Likely Landscape Effects on a variety of receptors including near residential properties, motorists on a variety of routes and users of recreational routes including PRoW and Sustran cycle routes. The LVIA (para 8.31) confirms that potential adverse impacts would be very localised to the Site and whilst there would be a high magnitude of impact during the construction phase (para 8.15 – 8.16), visually the proposal, would more generally be screened due to the low lying nature of the site and the density of intervening vegetation. Screening would increase year-on-year as the proposed planting matures. In this way, the existing and new planting would provide a high degree of physical and visual enclosure which would negate concerns associated with residential amenity. It would also negate significant cumulative effects between existing solar farms in the area.

8.5. On this basis, due to the amount of existing and proposed planting and the separation distances no harm is expected on more distant residential amenity. Langarra Park is occupied by the closest near residents but it is separated by two mature hedgerows which screen the development. The panels would also be located side on to a maximum height of 3m, resulting in minimal harm to amenity.

8.6. Halberton Parish Council have requested for assurances that all construction and maintenance traffic will travel from the M5 through Willand and not through Halberton on the basis of residential amenity and highway safety. Officers considered this a reasonable request and accordingly make it conditional upon planning consent.

## **9. Pollution, air quality and waste management**

9.1. Policy DM3 requires that development proposals that give rise to significant levels of vehicular movement must be accompanied by a Transport Assessment, Traffic Pollution Assessment and a Low Emission Assessment and should propose mitigation measures where appropriate, including impacts on local air quality. Policy DM4 requires development that is at risk of negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution to be accompanied by a Pollution Impact Assessment and mitigation scheme where necessary.

9.2. The application is accompanied by a Transport Statement, Glint & Glare Report, contaminated land report, Outline Waste Management Plan and a noise report.

9.3. Construction activities associated with any new development will inevitably cause some disturbance; predicted at 7 HGV deliveries (14 two-way vehicle movements) per day over a 20 week construction period in addition to 20 staff vehicles (40 two-way movements per day). Traffic routes, hours of delivery and size of vehicles will be secured through a Construction Management Plan, conditional upon planning consent. Once in operation, the overall impact from the traffic generated by the development is likely to have a minor to moderate impact. The Glint and Glare report provides an assessment on a number of receptors with an overview provided at Chapter 9. No significant impacts are predicted. Similarly, the Noise report confirms (Chapter 6) that the change in noise level during the day-time and night-time periods are not expected to change significantly and fall within the No Observed Adverse Effect Level. The Outline Waste Management Plan confirms that the proposed development will generate low volumes of waste material. Opportunities will be sought to re-use and prevent waste and will be conditional upon planning consent.

9.4. Overall, the proposed development is considered to be in accordance with Local Plan Policies DM3 & DM4. On this basis the proposal is considered acceptable, conditional upon planning consent.

## **10. Economic benefits**

10.1. Policy S1 of the local plan states at criterion (b) that all development will be expected to support the creation of sustainable communities by building a strong, competitive economy through access to education, training and jobs, infrastructure, the creation of new enterprise, economic regeneration and flexibility of uses to respond to changing circumstances.

10.2. Paragraph 81 of the National Planning Policy Framework states that significant weight should be placed on the need to support economic growth taking account of local business needs and wider opportunities for development. Paragraph 84 supports sustainable growth and diversification of agricultural and other land based rural businesses.

10.3. The UK is committed to the decarbonisation, security of supply and affordability of energy. Generating low carbon energy to achieve Net Zero by 2050 is central to the achievement of this. The proposal supports opportunities for local employment, farm diversification and energy security. On this basis, the proposal accords with the Mid Devon Local Plan 2013 - 2033, Policy S1 and National Planning Policy Framework and is considered acceptable.

## **11. Other matters raised**

11.1. A number of queries and questions have been raised throughout the application process. A number of them were addressed at a Q&A session with the applicant, Planning Committee and Ward Members invited on 27 September 2023. Matters more specifically raised throughout the application process:

**Community Benefit:** A development of this scale will inevitably have an impact on the immediate local community. A request was made for community benefits to be secured through the planning process. For this to be achieved, the community benefit needs to meet the test for planning conditions and planning obligations. In both instances this requires the community benefit to be fair, directly related to the development, reasonable and practicable. However, the request made has not been to tackle a specific problem (Use of Planning Conditions, July 2019) but rather to emolliate a perceived aversion and / or cumulative impact of the development. On this basis, a community benefit cannot be achieved through the planning process. Further, neither national nor local planning policy requires community benefit.

**Carbon Assessment:** whilst a whole life carbon assessment has not been undertaken by the applicant the applicant has confirmed that:

*“Research has been undertaken regarding carbon assessments of solar projects and although there are varying factors involved, the results have shown that on average the carbon payback period range from 1-4 years. This includes the procurement and production of all equipment including the solar panels, construction, operation and disposal. This means that the solar energy produced during the lifetime of a solar farm will generate zero-pollution electricity, offering an alternative to fossil fuels and therefore helping reduce carbon emissions. Further information can be found in the following articles: <https://solarenergyuk.org/wp-content/uploads/2022/03/Briefing-Fact-Checker-1.pdf>; and <https://www.renewableenergyhub.co.uk/main/solar-panels/solar-panels-carbon-analysis>”.*

## **1. Planning balance**

12.1. The loss of 81% of BMV land is of clear significance to this application and weighs against it. However, case law has accepted that whilst this may represent a presumption against development, the substantial benefits of generating renewable energy on a site that is particularly well screened so that there would be little landscape or visual harm, can



outweigh the harm caused by the loss of BMV land. Case law also shows that land beneath the panels that is retained in agricultural use with the management of the field margins bringing wildlife benefits also helps outweigh the harm caused by the loss of BMV land. This application shows clear parallels.

12.2. The compelling evidence provided by the development is as follows:

- a) The site is largely screened from public views minimising its visual impact;
- b) There are no built heritage setting impacts;
- c) Large scale hedgerow and tree planting will further screen the site and provide over 100% BNG.
- d) MDDC is committed to net zero by 2030 and as evidenced in the statement of need is not on a trajectory track to meet this - many more solar farms of this size would be needed to meet net zero;
- e) The proposal provides energy security and energy affordability;
- f) The proposal has a short construction period with minor to moderate impact;
- g) The proposal will only use 0.4% of MDDC's BMV land and will not be sterilised from being brought back into agricultural use in 40 years' time;
- h) The BMV land within the application area is used for cereal crops rather than veg/salad or fruit. The UK is self-sufficient in most cereal crops – other than those we cannot grow e.g. pasta wheat;
- i) The wild flower seeded land will remain grazed with field margins managed for wildlife benefits;
- j) The proposal presents some employment and economic benefits;
- k) Connection of the floodplain to the Connecting the Culm project has strategic benefits for wider flood issues; and
- l) The proposal has the ability to meet the strict requirements of the Environment Agency, the Local lead Flood Authority and Highway Authority with opportunity for traffic to be routed away from areas of highway conflict (Halberton).

12.3. On the basis that the proposal would deliver benefits in support of other elements of the Council's development plan, commitment to the Climate Emergency and to the content of the National Planning Policy Framework it is considered by your officers that the reasons amount to 'compelling evidence' and tip the balance in favour of granting approval for this application.

12.4. Officers therefore recommend approval of this application which is considered to be in accordance with Mid Devon Local Plan 2013 – 2033 and National Planning Policy Framework.

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

Subject to conditions, the proposed works are able to be supported by the Mid Devon Local Plan 2013 - 2033. It is considered that the site will be visually unobtrusive in its setting; screened further as areas of proposed planting mature. The proposals are also considered to result in a less than substantial impact on the setting of heritage assets. Whilst a number of representations have been received relating to the size of development, loss of farmland, impact on landscape setting (site specific and cumulative), ecology and flood the Council's Public Health team and independent Ecology consultant have removed all objections following amendments to the application. Similarly the statutory consultees including the Environment Agency, Highway and Flood Authorities have removed objections. The proposal is therefore considered to accord with policies S1, S8, S9, s14, DM1, DM2, DM3, DM4, DM25 and DM26 of the Mid Devon Local Plan (2013-2033) and with Government advice in the National Planning Policy Framework (NPPF).

## 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. Prior to the commencement of development hereby permitted full details of the final layout of the development shall be submitted to and approved in writing by the Local Planning Authority. Submitted details shall include proposed finished levels, and finished floor levels of any buildings/containers. The final layout, buildings, containers, solar panels (including any supporting framework) shall be within (not extend beyond or exceed) the parameters/dimensions indicated on submitted drawings:  
LCS077 DZ-01 Rev 07 - Development Zone Plan  
LCS077 PLE-01 Rev12 - Layout Plan External  
SD-26 Rev 01 Transformer – Standard Drawing  
SD-17 Rev 01 Panel Arrangement 4 landscape 29.5 tilt  
SD-15 Rev 01 Customer Substation Floor Plan  
SD-14 Rev 02 DNO Substation Floor Plan  
SD-02 Rev 02 Customer Substation Elevations and Dimensions Plan  
SD-01 Rev04 DNO Substation Elevations and Dimensions Plan  
Thereafter the development shall be carried out in accordance with the approved details and thereafter permanently maintained in the agreed form.
5. No development shall take place including any ground works or demolition until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved CMP shall be adhered to throughout the construction period. The CMP shall provide for:
  - (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) Suitable signage and construction vehicle routes for all construction vehicles, to be agreed with the Highway Authority;
  - (g) 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;

- (h) areas on-site where delivery vehicles and construction traffic will load or unload building materials, plant, 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;
- (i) hours during which no construction traffic will be present at the site;
- (j) the means of enclosure of the site during construction works; and
- (k) the parking of vehicles for site operatives and visitors and details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (l) details of wheel washing, underbody washing facilities, road sweeping and strategies to mitigate against any dust, noise, fumes, odour and waste that arise from the development;
- (m) the proposed route of all construction traffic exceeding 7.5 tonnes;
- (n) details of the amount and location of construction worker parking;
- (o) photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- (p) proposed construction methodologies and provision for protecting sites of archaeological importance from accidental damage during construction works;
- (q) siting and noise mitigation measures for temporary power sources and other works required during the construction process; and
- (r) details on on-site management to ensure off-site flooding or dirty water run-off does not occur during construction;

No development shall take place including any ground works or demolition until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved CMP shall be adhered to throughout the construction period. The CMP shall provide for:

- (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) Suitable signage and construction vehicle routes for all construction vehicles, to be agreed with the Highway Authority;
- (g) 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;
- (h) areas on-site where delivery vehicles and construction traffic will load or unload building materials, plant, 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;
- (i) hours during which no construction traffic will be present at the site;
- (j) the means of enclosure of the site during construction works; and
- (k) the parking of vehicles for site operatives and visitors and details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

- (l) details of wheel washing, underbody washing facilities, road sweeping and strategies to mitigate against any dust, noise, fumes, odour and waste that arise from the development;
- (m) the proposed route of all construction traffic exceeding 7.5 tonnes;
- (n) details of the amount and location of construction worker parking;
- (o) photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- (p) proposed construction methodologies and provision for protecting sites of archaeological importance from accidental damage during construction works;
- (q) siting and noise mitigation measures for temporary power sources and other works required during the construction process; and
- (r) details on on-site management to ensure off-site flooding or dirty water run-off does not occur during construction;

6. No development shall take place including demolition, ground works or vegetation clearance until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall accord with BS42020 and shall also include details for the control and management of noise and dust during the construction phase, and with respect to noise shall have due consideration of the guidance within BS 5228:2009+A1:2014. The CEMP will be adhered to by the contractor throughout the construction process. The CEMP shall include the following:

- a) A risk assessment of potentially damaging construction activities;
  - b) Identification of "biodiversity protection zones";
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during the construction stage (may be provided as a set of method statements);
  - d) The location and timing of sensitive works to avoid harm to biodiversity features;
  - e) The times during construction when specialist ecologists need to be present on site to oversee works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
  - h) Use of protective fences, exclusion barriers and warning signs;
  - i) Details for the control and management of noise and dust during the construction phase;
- The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

7. No later than 40 years from the first exportation of power (local planning authority to be notified of the date in writing), all buildings, hardstanding, access tracks, walls/fences/gates, containers, chattels, plant and related equipment on the site shall be permanently removed, under the supervision of a qualified ecologist, together with all waste materials resulting from such removal from the site and the land returned to grassland. Furthermore, if the use as described in the application permanently ceases before that time then the site clearance and restoration shall occur within 28 days of that cessation occurring, or other period as may be previously agreed in writing by the Local Planning Authority.

8. If the solar farm ceases to export electricity to the grid for a continuous period of 12 months, a scheme shall be submitted to the local planning authority for its written approval within 3 months from the end of the 12 month period, for the removal of the solar farm and associated equipment and the restoration of that part of the site to agricultural use. The approved scheme of restoration shall be fully implemented within twelve months of the written approval being given.

9. No development hereby approved shall take place otherwise than in accordance with a phasing programme that shall previously have been submitted to and approved by the Local

Planning Authority in writing. The phasing plan shall implement all the security fencing in the first phase of development.

10. A landscape and ecological management plan (LEMP) shall be submitted to and shall be approved in writing by, the Local Planning Authority prior to the commencement of the development and prior to any phase of development coming into operation. The content of the LEMP shall accord with BS42020 and shall include:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period for the full life expectancy of the proposed development);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures;
- i) Details of seed mixtures to be sown in 'cover crop' areas;
- j) Details of appropriate management of cover crops;
- k) Details of stocking densities (if sheep are to be used to manage grassland areas);
- l) Details of maximised grassland margins to increase likelihood of providing nesting Skylark habitat;
- m) Details of proposed planting specifications;
- n) Details of landscaping and biodiversity net gain areas; and
- o) Details of who will manage and maintain these areas once operational.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

11. Prior to commencement and notwithstanding the details contained within the Landscape and Ecological Management Plan (LEMP) a landscaping scheme containing details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently the works shall be carried out as approved prior to the first exportation to the National Grid, or in the first available planting season following such exportation and permanently retained and maintained in accordance with the agreed lifetime of the development. The details to be submitted shall include: Hard surfacing including pathways and driveways other hard landscape features and materials; existing trees, hedges or other soft features to be retained, planting plans including specification of species, trees, planting centres, number and percentage mix; details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife.

12. All development hereby approved shall be developed in accordance with recommendations in the Ecological Impact Assessment (Rev2) and Planting Design Plans (No.s 0100\_P4; 0150\_P4; 0151\_P4; 0152\_P4; 0153\_P4; 0154\_P4; 0155\_P4; 0156\_P4; 0157\_P4; 0158\_P4; 0159\_P4; 0160\_P4; 0161\_P4; 0162\_P4; 0163\_P4; 0164\_P4; 0165\_P4 & 0166\_P4).

13. Prior to their installation details of the external walls, roofs, colour and finish of all ancillary buildings, including substations and inverter/transformer stations shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall

be carried out in accordance with the approved details and thereafter permanently maintained in the agreed form.

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. Prior to the commencement of the proposed development, 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 to the centre line in any direction.

16. 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 to the satisfaction of the Local Planning Authority.

17. No development shall take place on site until the off-site highway works to provide the necessary number of passing places along Browns Bridge Lane has been agreed by the Local Planning Authority and constructed and made available for use.

18. 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 as agreed in writing by the Local Planning Authority.

19. The development shall not be brought into its intended use until:

- (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation; and
- (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

20. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Two Tree Solar Farm Surface Water Drainage Strategy (Report Ref. -, Rev. 04, dated 25th October 2023) but with the updated swale layout on Drawing TN\_ACM\_XX\_XX\_DR\_CE\_1057, 1059 and 1060, Rev. P5, dated 06th November 2023).
- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted;
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system; and

(d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

21. Prior to the commencement of any part of the site hereby approved, the Planning Authority shall have received and approved in writing a report giving detail on:

- a) The amount of excavation waste in tonnes;
- b) Identify targets for the re-use, recycling and recovery for each waste type from during construction and excavation;
- c) Method of auditing the waste. This should include a monitoring scheme and corrective measures if failure to meet targets occurs; and
- d) Provide detail of the waste disposal method including the name and location of the waste disposal site for the waste produced.

The recommendations in the report shall be operated thereafter in accordance with those recommendations.

22. Prior to decommissioning the developer will have submitted to and will have written approval from the Local Planning Authority for a Decommissioning Plan that will secure a programme for the re-use and recycling of waste materials. Thereafter, the works shall be carried out in accordance with the approved details.

23. A light strategy that minimises the impact of lighting at both construction and operational stage shall be agreed in writing by the LPA prior to works commencing. No external form of illumination of the site shall be undertaken at operational stage other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits.

24. All development hereby approved shall be developed in accordance with the Arboricultural Report (THL-R22-105, Oct 2022) and Tree Protection Plan (THL-1082-3). Accordingly,

- A minimum buffer of 5m will be established from all hedgerows around the site and a 15m buffer around all woodland;
- A Construction Exclusion Zone (CEZ), using barriers to exclude vehicles, personnel and materials around retained trees, groups and hedges will ensure their protection against damage during construction;
- A 'no dig' construction method and the use of a 3D cellular confinement and load spreading system where roads are in close proximity to trees as informed by the AIA, APPNDIX D will be applied.
- No encroachment of the solar panels into the RPA of Tree No. T70.
- Any trees within the application area requiring pruning or felling within a period of 10 years post completion to require permission from the Local Planning Authority.

25. All construction traffic will travel from the M5 via Willand and shall not travel through Halberton. This will be outlined within the submitted and approved CMP as per Condition 5 above.

## REASONS FOR CONDITIONS

1. To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
1. 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. Information is required prior to commencement of the development to agree the precise location and specification of the solar farm to ensure the design of the development integrates with the character and appearance of the area, to protect the amenity, to ensure flood risk would not be increased, to ensure development would have regard to below ground archaeological constraints, and to protect ecology and biodiversity including trees and woodland in accordance with the aims of policies S1, S9, S14, DM1 and DM25 of the Mid Devon Local Plan 2013 - 2033.
5. Information is required prior to the commencement of the development to ensure that the construction traffic is managed, to ensure that parking of these vehicles does not occur on the public highway and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.
6. Information is required prior to the commencement of the development to ensure that ecological receptors are adequately protected as part of the development. To also mitigate noise and dust impacts in particular to receptor locations during the construction phase.
7. In the interests of landscape and visual amenity. This application is time limited and gives planning permission for 40 years only. In the interests of the character and appearance of the area the site shall be cleared and restored to grassland following the cessation of use as a solar farm.
8. In the interests of the character and appearance of the area. The site shall be cleared and restored to grassland following the cessation of use as a solar farm.
9. Information is required prior to the commencement of the development to provide certainty in the interests of good planning.
10. Information is required prior to the commencement of the development to ensure that the long-term ecological value of the site is maintained and enhanced and to ensure that the proposed vegetation contributes to the agricultural character of the wider area and successfully screens solar farm infrastructure in views.
11. Information is required prior to the commencement of the development to ensure the hard and soft landscape details are agreed in the interest of the character and appearance of the area.
12. In order to protect wildlife habitats and biodiversity net gains in accordance with policies S1 and S9 of the Mid Devon Local Plan 2013 – 2033 and the National Planning Policy Framework for the lifetime of the proposal.
13. In the interests of the character and appearance of the area.



14. In the interests of landscape and visual amenity. To ensure that the landscape buffer is secured to ensure the long term visual amenity that it is intended to provide in accordance with policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033.
15. Information is required prior to the commencement of the development in the interests of highway safety
16. To prevent mud and other debris being carried onto the public highway.
17. Information is required prior to the commencement of the development to ensure the off-site highway works are required to minimise the impact of the development on the highway network.
18. Information is required prior to the commencement of the development to ensure, in accordance with Policy DM25 of the Mid Devon Local Plan 2013 – 2033 and paragraph 205 of the National Planning Policy Framework (2021) 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.
19. To comply with Paragraph 205 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.
20. Information is required prior to the commencement of the development to ensure that the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including National Planning Policy Framework and PPG.  
  
The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.
21. Information is required prior to the commencement of the development to ensure that waste is managed appropriately in accordance with Policy W4 of the Devon Waste Plan 2011 – 2031 (Adopted 2014).
22. To ensure that the large volumes of waste that will be removed from the site at de-commissioning stage are appropriately re-used and recycled.
23. To minimise light pollution in this rural area and in the interests of biodiversity, ecology and private amenity in accordance with policies S9 and DM2 of the Mid Devon Local Plan 2013 – 2033.

24. To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area and to enhance its setting within the immediate locality.
25. In the interest of residential amenity and highway safety.

## **INFORMATIVES**

All lighting will demonstrate current best practice (BCT/ILP, 2023) guidance and Devon guidance '*Maintaining dark corridors through the landscape for bats*' (Jan 2022) has been implemented. This is to ensure the site continues to support commuting and foraging bats within the site and the wider landscape.

Parts of the Halberton Stream and Spratford Stream within the application site are designated as 'Man' river. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities detailed in [Flood risk activities: environmental permits - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/flood-risk-activities-environmental-permits). The applicant must ensure they obtain the correct permit where applicable.

Ordinary watercourses which run through the site may need to be crossed to enable ground works to take place. If any temporary or permanent works take place within these watercourses (such as an access culvert or bridge), Land Drainage Consent will need to be obtained from Devon County Council's Flood and Coastal Risk Management team prior to any works commencing.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within 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.

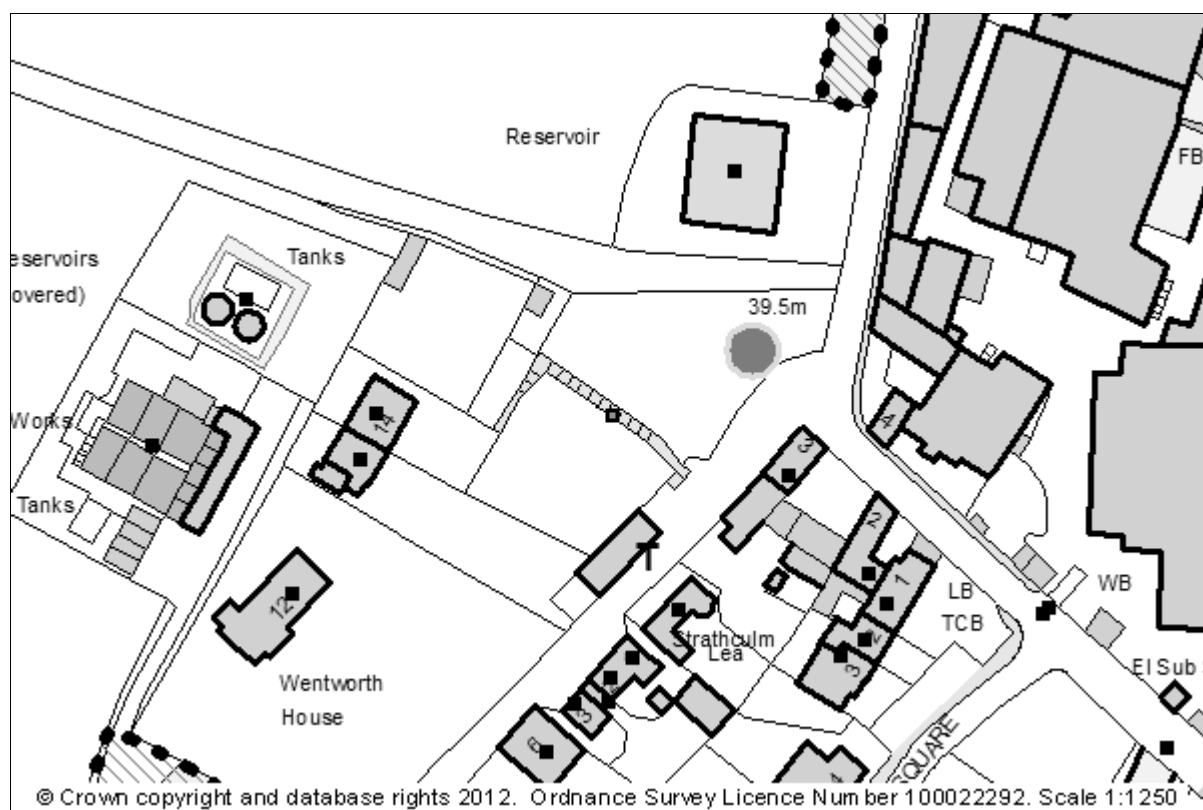
## Tree Preservation Order: 23/00003/TPO

Grid Ref: 299283 : 102476

Location: Land at NGR 299306 102486  
Strathculm Road  
Hele  
Devon

Proposal: Tree Preservation Order for 1 Copper Beech tree

Date Valid: 6th July 2023



**TREE PRESERVATION ORDER: 23/00003/TPO**

**Site Visit: No**

**MEMBER CALL-IN:**

Due to objection received from Mr Hall

**RECOMMENDATION**

That the Tree Preservation Order 23/00003/TPO is confirmed.

**Consultation carried out with:**

1. The landowners have been notified of the imposition of the Tree Preservation Order and provided with the opportunity to object to its confirmation.

**PROPOSAL:**

Tree Preservation Order for 1 Copper Beech tree at Land at NGR 299306 102486  
Strathculm Road, Hele

**RELEVANT SITE HISTORY/DESCRIPTION:**

**OTHER HISTORY:**

**18/00569/PREAPP** - CLO date DS,CLOSEDD.CNAPPLLOG,22;  
PROTECT - Restoration of building for use as community/heritage centre

## AMENITY EVALUATION:

The amenity evaluation has been reviewed 26/10/23 and adjusted accordingly.

Original score 22. Reviewed score **20**

1. Size	Score	Notes
1 Very small 2-5m <sup>2</sup>	5	The tree is est. to be 10-12m in height with an est. crown spread of 8-10m. Tree is still growing and has the potential to become larger.
2 Small 5-10m <sup>2</sup>		
3 Small 10-25 <sup>2</sup>		
4 Medium 25-50m <sup>2</sup>		
5 Medium 50-100m <sup>2</sup>		
6 Large 100-200m <sup>2</sup>		
7 Very large 200m <sup>2</sup> +		

2. Life expectancy	Score	Notes
1 5-15 yrs	4	The tree is semi-mature (one-third life expectancy) estimated to be 30 years old. Typically beech can live for over 150 years.
2 15-40 yrs		
3 40-100yrs		
4 100yrs +		

3. Form	score	Notes
-1 Trees which are of poor form	1	No obvious visual defects observed. Tree viewed to be of typical form. Some included unions observed.
0 Trees of not very good form		
1 Trees of average form		
2 Trees of good form		
3 Trees of especially good Form		

4. Visibility	Score	Notes
0 Trees not visible to public	3	Trees is growing within a green space on the corner of Station road and Heal road and is very visible when approached from both direction
1 Trees only seen with difficulty or by a very small number of people		
2 Back garden trees, or trees slightly blocked by other features		
3 Prominent trees in well frequented places		
4 Principal features in a public area.		

5. Other trees in the area	Score	Notes
0.5 Wooded (70% = 100+ trees)	1	Area viewed as semi-rural. Many trees within the garden spaces, along field boundaries and surrounding green space.
1 Many (30% = 10+ trees)		
2 Some (10% = 4+trees)		
3 Few (<10% = 1+trees)		
4 None		

6. Suitability to area	Score	Notes
-1 Unsuitable	3	Tree suitable for area that is characterised by broadleaf trees. Many of which are native.
1 Just suitable		
2 Fairly suitable		
3 Particularly suitable		
4 Very suitable		

7. Future amenity value	Score	Notes
0 Potential already recognised	2	As the tree grows the visibility and prominence is likely to increase where it could become a standout feature in the local landscape providing further amenity value.
1 Some potential		
2 Medium potential		
3 High potential		

8. Tree influence On Structures	Score	Notes
-1 Significant	0	Tree branches will require pruning to elevate conflict with overhead telecom lines. Low branches will require crown lifting over the highway periodically.
0 Slight		
1 Insignificant		

9. Added factors	Score	Notes
1 Rare	1	Tree was planted with by Hele Conservation Society and previously had a brass plate noting it's planting in 1993.
1 Screening unpleasant view		
1 Relevant to the Local Plan		
1 Historical association		
1 Considerable wildlife value		
1 Veteran tree status		

*If more than one factor relevant maximum score can still only be 2.*

10. Notes and total score	Score	Notes
Not / Reasonable for inclusion within the TPO (>15 Merits consideration)	20	The tree provides a level of amenity value that merits a TPO. Tree is outside of a conservation area informing there are no constraints restricting tree removal currently. Land where tree is growing has recently been sold informing tree could be threaten if land is developed.

## REPRESENTATIONS:

Mr Hall whom recently bought the plot of land where the tree is situated has objected to the TPO and have raised the following objection that has been bullet pointed and summarised in this report.

1. The land was recently sold to me free from any TPO's. The Hele conservation society had been using the land for many years before and had tried to acquire the land, this was not advertised to me when I bought the land. Possible the person raising the concern is nursing a grudge because they no longer have use of the land, especially given that they have approached me on more than one occasion, inviting me to open the land for public/society use.
2. As it stands, the tree is quite a pleasant specimen, but I would prefer to have the choice to maintain it, without the need to follow strict protocol for TPO's, especially given that the tree is near to power lines and I don't want to be constantly worried about the proximity to these lines and any costs if the tree, or any part of it, was to blow over in the winds and bring down the power lines.
3. The Copper Beech typically will grow to around 100 feet tall if not trimmed annually.
4. When you consider the size of the tree and the shallow root system, it becomes quite a hazard in windy conditions (most of the trees felled in storm

Ali, as recorded by the Scottish Wildlife Trust, were Beech trees). Therefore these trees seem best as maintained smaller trees/bushes/hedging in gardens, or left to stand free from encumbrance and away from potential hazards.

5. Having to take out regular inspections on a tree would become prohibitively expensive, especially if works were recommended and then there is the time of up to 8 weeks needed to wait for approval from the council for such works.
6. This type of tree needs regular watering, mulching and pruning, neither of which I am convinced has already taken place. I am therefore unsure of the health of the tree at present and very concerned about the financial impact that having a TPO would have, as well as the legal requirement to make sure it is well looked after.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

### **The main issues in the determination of this application are:**

In response to Mr Halls comments and objection to the Tree Preservation Order. The reasons for the Hele conservation society approaching MDDC are not for the officer to determine. MDDC will undertake a review for Tree Preservation Order where one is requested and undertake suitable evaluation. When considering a Tree Preservation Order, the officer will consider firstly does the tree merit a Tree Preservation Order and secondly where a tree merits a Tree Preservation Order is it expedient to serve one. Due to change in land ownership it was viewed as expedient to serve a Tree Preservation Order where a tree would merit one.

It's important to recognise that a Tree Preservation Order should not be viewed as a tool to prevent tree works being carried out in a suitable timeframe. A Tree Preservation Order is there to ensure that proposed tree works are reasonable, suitable and adequately justified. The timeframe for a Tree Preservation Order application is 8 weeks. There is no cost for such an application. There are only rare occasions when 8 week application period is not suitable due to the threat posed by the tree. In which case a 5 day notice can be submitted. Similar, if immediate works are required a 5 day notice can be submitted as soon as practical after works are completed along with sufficient photo evidence. i.e. broken branch hung up over the highway. Deadwood can be removed from the tree without applying to the local planning authority under the TPO. Where branches conflict with overhead power lines or telecom line the Electricity Act 1989 or Telecommunications Act 1984 allow necessary works by carried out by the statutory undertaker to maintain the necessary clearance from branches without the need to seek permission from the authority too.

In consideration to Mr Halls concerns regarding beech trees shallow root system and potential increased hazard in windy conditions. It is worth noting all trees when subjected to strong, stormy winding conditions have the potential to fail. However, only a very limited number trees do fail informing the risk is extremely low. Particularly where there are no know defects currently present. It is also important to balance any risk potentially from a tree with the benefits provided.

With concerns raised regarding cost of having to undertake regular inspections and

associated recommended trees works. It's advised owners of trees, particularly large trees should have their tree inspected whether the tree is subject to a Tree Preservation Order or not. Undertaking such inspection should ensure only necessary works are carried out and the owner of the trees does not pay for needless tree works. Furthermore, removal of tree for these reason is not viewed as reasonable.

The tree is semi-mature and established. Only for the first 2-3 years after a young tree is planted will a tree require watering and mulching to reduce water loss through watering and reduce weed competition. Once a tree has established after 2-3 years it will not require further watering as the tree can exploit the surrounding soils for its water and nutrients. There is no legal requirement of a Tree Preservation Order to ensure that the tree is well looked after and maintained.

### **SUMMARY:**

The tree provide good amenity value to the local landscape and are likely to continue contributing to the landscape in the long-term. The issue raised by Mr Hall who owns the tree who has objected to the Tree Preservation Order being confirmed have been reviewed. The points raised are not sufficient to outweigh the contribution from the tree. The issue highlighted can largely be resolved through appropriate pruning when required and routine maintenance. Pruning to maintain a suitable clearance from the overhead telecom lines does not require permission form the local authority also pruning of low branches interfering with the highway will not require permission too. It is recommended that the TPO be made.

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.



## Major Applications with no Decision (Since last Committee Close Date)

Members are asked to note that some major applications will be dealt with under the delegation scheme. Members are also requested to direct any questions about these applications to the relevant case officer. It was resolved at the meeting of Planning Committee on 21st March 2018 that with the exception of small scale proposals, applications for ground mounted solar PV arrays recommended for approval be brought before the Committee for determination.

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	3	16/01/2024	23/01406/MFUL	Siting of 4 log cabins for use as holiday lets	Land at NGR 271242 108982 (South Of Nymet Mill Farm) Nymet Rowland Devon	Mr Shane Burgess	COMM	
2	5	01/01/2024	23/01440/MOUT	Outline application with details of access for demolition of existing structures and development of residential dwellings (up to 1,100 dwellings) and elderly accommodation (up to 118 units), village centre uses, primary school, public open space, play areas, wildlife areas, associated infrastructure and landscaping	Land at NGR 304098 107284 Newlands Farm Cullompton Devon	Ms Tina Maryan	DEL	
	6	25/12/2023	23/01446/MFUL	Erection of barn to incorporate stables and indoor arena following demolition of existing	Ashmoor Stud Ashfields Stoodleigh Tiverton Devon EX16 9QF	Mr Shane Burgess	DEL	
	8	12/12/2023	23/01351/MFUL	Construction, operation and maintenance of a Battery Energy Storage System (BESS) facility with associated infrastructure and works including highway access, landscaping and biodiversity enhancements	Land at NGR 304444 114510 North of A361, Junction 27 Westleigh Devon	Ms Tina Maryan	COMM	

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## LIST OF APPEAL DECISIONS FROM 14 September to 09 November 2023

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
21/01576/MOUT	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	Land at NGR 298976 112882 (Hartnoll Farm) Tiverton Devon	Refuse permission	Committee Decision	Refuse permission	Public Inquiry	Appeal Dismissed
22/01820/FULL	Change of use of ancillary accommodation to dwelling	Croft View Silver Street Culmstock Cullompton Devon EX15 3JE	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

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