

# Public Document Pack

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**PLEASE NOTE:** Members of the public wishing to speak to a planning application are requested to contact the Committee Administrator before the meeting starts.

## MID DEVON DISTRICT COUNCIL

### PLANNING COMMITTEE

A MEETING of the PLANNING COMMITTEE will be held in the Phoenix Chamber, Phoenix House on Wednesday, 10 February 2016 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 9 March 2016 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

#### JILL MAY

Interim Chief Executive  
2 February 2016

**Councillors:** Mrs H Bainbridge, K Busch, Mrs C Collis, Mrs F J Colthorpe, J M Downes, S G Flaws, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley

## A G E N D A

### MEMBES 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 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 16*)  
To receive the minutes of the previous meeting (attached).
- 4 **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
- 5 **ENFORCEMENT LIST** (*Pages 17 - 22*)  
To consider the items contained in the Enforcement List.

- 6      **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing in the Plans List which have been deferred.
- 7      **THE PLANS LIST** *(Pages 23 - 40)*  
To consider the planning applications contained in the list.
- 8      **THE DELEGATED LIST** *(Pages 41 - 54)*  
To be noted.
- 9      **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 55 - 56)*  
List attached for consideration of major applications and potential site visits.
- 10     **APPEAL DECISIONS** *(Pages 57 - 58)*  
To receive for information a list of recent appeal decisions.
- 11     **APPLICATION 15/01422/FULL - ERECTION OF 4 DWELLINGS WITH GARAGES AND ALTERATIONS TO ACCESS (REVISED SCHEME) AT LAND AT NGR 302666 114116 (WEST PAULLET), TURNPIKE, SAMPFORD PEVERELL** *(Pages 59 - 80)*  
To receive an implications report from the Head of Planning and Regeneration following discussions at the previous meeting where Members were minded to refuse the application.
- 12     **APPLICATION 15/01613/FULL - VARIATION TO CONDITION 1 OF PLANNING PERMISSION 12/01376/MFUL TO READ THE SOLAR PV FACILITY SHALL CEASE TO GENERATE ELECTRICITY ON OR BEFORE 30 JUNE 2043 AT LIGHTSOURCE S P V 52 LTD, SOLAR FARM AT NGR 296542 118012 (PALFREYS BARTON) COVE** *(Pages 81 - 130)*  
Report of the Head of Planning and Regeneration regarding this application.
- 13     **APPLICATION 15/01612/FULL - VARIATION OF CONDITION 1 OF PLANNING PERMISSION 12/01306/MFUL THE SOLAR PV FACILITY SHALL CEASE TO GENERATE ELECTRICITY ON OR BEFORE 28 MARCH 2043 AT SOLAR FARM AT NGR 274160 105292, ELLICOMBE FARM, MORCHARD ROAD** *(Pages 131 - 180)*  
Report of the Head of Planning and Regeneration regarding this application.
- 14     **PERFORMANCE REPORT** *(Pages 181 - 184)*  
To receive a report of the Head of Planning and Regeneration providing the Committee with information on the performance of Planning Services for quarter 3 within the 2015-16 financial year.

**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. The reports within this agenda have 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.**

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

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 Sally Gabriel on:

Tel: 01884 234229

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Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 13 January 2016  
at 2.15 pm

### **Present**

#### **Councillors**

Mrs F J Colthorpe (Chairman)  
Mrs H Bainbridge, K Busch, Mrs C Collis,  
R J Dolley, J M Downes, S G Flaws,  
P J Heal, D J Knowles, F W Letch,  
B A Moore, R F Radford, J D Squire and  
R L Stanley

### **Apologies**

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

J L Smith

### **Also Present**

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

Mrs J B Binks, Ian Sorenson and N A Way

### **Present**

#### **Officers:**

Jenny Clifford (Head of Planning and  
Regeneration), Simon Trafford (Area  
Planning Officer), Amy Tregellas (Head of  
Communities and Governance and  
Monitoring Officer), Daniel Rance (Principal  
Planning Officer), Luke Smith (Principal  
Planning Officer), Ian Winter (Environmental  
Health Officer) and Sally Gabriel (Member  
Services Manager)

## 98 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr J L Smith.

## 99 **PUBLIC QUESTION TIME**

Mr Pilgrim referring to Item 1 on the Plans List (Red Linhay) stated that the officer's report seems to accept that the applicant's information is correct, I ask you to consider whether the officers recommendation is motivated to shift the focus of challenge. The application depends on an Environment Agency permit, if the Environment Agency refuse the permit and the scheme is operated without a permit the applicant would be in breach of the Environment Agency. If you refuse permission it is likely that an appeal will lead to costs, the credibility and diligence of the officer will be judged.

Mrs Punnett referring to Item 4 on the Plans list (Edgeworthy Farm) stated that the Lake's had been farming Edgeworthy for many generations. Agriculture has continued to change and farmers have had to adapt with the demands for food and animal welfare law. Edgeworthy have been milking dairy cows for many years but with TB and falling milk prices there is a need to diversify. The plan is to produce

quality free range chicken and this will form a vital part of Edgeworthy continuing through the generations.

Mr Williams again referring to Item 4 on the Plans List (Edgeworthy Farm) stated that he wanted to know if the Committee were aware that the application will help local communities and local business with employment as an increase in the number of poultry will mean an extra stockman and help local people with work building the poultry houses, there will be a need for electricians and other professions, 4 or 5 other people will also be employed for the clean out period.

Mr Baxter referring to Item 3 on the Plans List (Menchine Farm) asked if the Committee were aware that in addition to the 5 further poultry units, the applicant had also applied for a pellet factory, which will have further traffic implications. An appeal would take place on 26 January and the inspector would consider traffic movement. High traffic will lead to harm to resident living conditions

Mr Lenton referring to Item 1 on the Plans List (Red Linhay) asked a question in 2 parts.

1 - the application before this committee is for an increased throughput of feedstocks and waste consumption– an increase of about 500 tonnes a year over the approved application. The officers own report makes clear that the size of the site has increased by 0.3 hectare, size of silage clamps increased volume by 17%, and digester tank by approx 15% from approved application. Given that the report makes clear that the principle of an AD can no longer be challenged, my question is how can it be that these increases do not result in anymore traffic movements and secondly given that these are additional and, in the view of the objectors, detrimental issues why is it that the officers report makes no attempt to address these issues other than to say that they are outweighed by the benefits and

2 – on the 4 December 2013 there was a planning meeting chaired by present chairman to consider an application at Edgeworthy Farm. During the course of that meeting, you Madam chairman declared a personal interest as the applicant was well known to you and chose to leave the room and took no part in the discussion or voting which is recorded in the minutes. What I would like to know, given that this application wrongly names the applicant as Mr Manley and the applicant is not Mr Manley but is in fact Greener for Life, the applicant at Edgeworthy was Greener for Life energy Ltd, same applicant, well known to your chairman, I would simply ask that for continuity and independence whether it is the chairman's intention to step down for the same reasons and take no part in the discussion.

The Chairman stated that she did have a personal interest in that she knew Mr Lake, Mr Reed and the Coles, she did not have an interest in the Red Linhay application as she did not know Mr Manley, she did not have a disclosable pecuniary interest (DPI) and therefore did not have to leave the meeting. She would declare a personal interest in Menchine and Edgeworthy and remain in the Chair. Sometimes if Members have a personal interest they may decide to leave the meeting but this would not be the case in this instance.

Mr White referring to Item 1 in the Plans List asked that when the officer recommended approval did he not consider that the harm to the environment and the Grand Western Canal was significant enough to balance a refusal. The site is larger and closer to the canal, there are no additional benefits. Condition 8 refers to no

storage of chicken or farmyard manures within the application site except in the sealed digestate storage tanks, where will the raw feedstock be stored, could this be clarified.

Mr Robbins referring again to Red Linhay stated that he was the closest resident to the site, that the application would set a precedent if approved; people will ignore permissions and build larger constructions.

Mr Nicholls referring to Item 2 on the Plans List (Fordton) asked the Committee to consider the residents of Fordton when determining the application. Given the present concerns about flooding of the Rivers Yeo and Creedy in the Crediton area, is the Committee absolutely convinced that existing and future planning applications concerning flood plains of these rivers fully taken into account and factor in 'trickle through' of water in flood plains but outside the river itself and, separately, the importance of tourism to Crediton. Can the Committee offer guarantees that their decisions will not adversely affect the safety, the health and prosperity of the residents of Crediton. You have the consultant's report on the flooding issue; so they consider the increased frequency of extreme rainfall? Since 1978 the road through Fordton has been impassable due to flooding on at least three occasions, this was not reported by your consultants. The effect of the development on flood water levels in the immediate area close to the proposed development including the railway is to be considered. The assessment of flood risk is in our opinion both flawed and out of date. There has been a failure to consider the implications for the railway station, its appropriateness in the surrounding area and impact upon tourist attractions.

Mr White (representing the Friends of the Grand Western Canal) and referring to Item 1 on the Plans List (Red Linhay) asked if there was a current Protected Species and Hedgerow assessment with the application?

Mr Gibson referring to Item 3 on the Plans List (Menchine Farm) stated that he ran a campsite 670 metres from the Menchine Farm chicken houses. Established in 1933, he ran a working farm alongside the campsite, we have managed smells and we do not touch our chicken houses through the summer period so as to keep the smells away from our visitors. The environmental report states that we will get some smell from the application, given the summer breeze, the smell from the application site will be catastrophic to our business especially at clean out. People did last year complain about the traffic noise. There previously was a need for free range chicken, this is no longer the case, how does this affect planning policy as producers are being told that there is no longer a need for the amount of chicken.

Mr Welchman referring to item 1 on the Plans List (Red Linhay) stated that he would like to publicise that he wanted to build a monstrosity in a sensitive location in the countryside, so I will put in a softer application, I get permission and then I build what I wanted all along and put in a revised plan, what message is that if this is approved today.

Mr Corden referring to Item 1 on the Plans List stated that I hope Members will consider that Greener for Life are not new to this, they know what is needed for a 500kw digester. They now require the whole thing to be larger to get the same amount of electricity, why did they not know they wanted more, it makes a mockery of the proposed plans in the original application. Traffic movements will be changed as farming has changed. You have approved a 2nd cattle building, the amount of

traffic movements are increased as to what was originally considered. All these changes for no change in output, has output increased? The officer has confirmed it is all larger, it will require many more traffic movements, please consider the people of Halberton.

The Chairman stated that answers to the questions would be given when the applications were considered.

#### 100 **MINUTES OF THE PREVIOUS MEETING**

Subject to an amendment to Minute 89, Note b) removing the wording “many of the local residents” and replacing with “both objectors and the applicant”, the minutes of the meeting held on 16 December 2015 were approved as a correct record and signed by the Chairman.

#### 101 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman informed the meeting that Principal Planning Officer Luke Smith would be leaving the authority and she wished him well.

#### 102 **ENFORCEMENT LIST (00-41-00)**

Consideration was given to a case in the Enforcement List \*.

Note: \*List previously circulated; copy attached to signed Minutes.

Arising thereon:

- a) No. 1 in the Enforcement List (***Enforcement Case ENF/15/00122/UNLD – Building frontage incorporating charity shop allowed to deteriorate causing adverse effect on the visual amenity of the area)- The Society for the Protection and Re-Homing of Animals, 24 Gold Street, Tiverton***)

The Enforcement Officer outlined the contents of the report stating that the building in question was in the Tiverton Conservation Area. The property was in poor condition and required attention. The owner had now stated that he would address the situation. Enforcement action was still appropriate until such time as the works were complete.

**RESOLVED** that delegated authority be given to the Legal Services Manager to take any appropriate legal action including the service of a notice or notices seeking the improvement of the appearance of the property frontage. In addition, in the event of the failure to comply with any notice served, to authorise prosecution, direct action and/or authority to seek a court injunction.

(Proposed Cllr R L Stanley and seconded by Cllr Mrs H Bainbridge).

#### 103 **DEFERRALS FROM THE PLANS LIST**

There were no deferrals from the Plans List.



## 104 THE PLANS LIST (00-44-00)

The Committee considered the applications in the plans list \*.

Note: \*List previously circulated; copy attached to the signed Minutes.

- (a) No 1 on the Plans List ***(15/01034/MFUL - Erection 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 – land at NGR 299621 112764 (Red Linhay) Crown Hill, Halberton).***

The Principal Planning Officer outlined the contents of the report explaining that the principle of the scheme had been approved by the Planning Committee, the amendments to the scheme were before Members today. Land feedstock sources had previously been identified and there was a condition restricting changes to these. Members viewed the proposed elevations of the amended plans, the position of the silage clamps, the extension to the planting scheme and photographs from various aspects of the site including a plan which identified the differences in the schemes and clarified that all the waste would be stored in sealed tanks.

He addressed the issues raised in public question time:

Noise and odour issues would be addressed through the Environment Agency permit

Rainwater would be channelled into the soakaway and effluent would go to the buffer tank.

The impact on the canal - people did use the area as a recreational site, there were glimpses from the canal, the dome could be seen in context with other buildings, and there were no protected species or flora identified in the assessment.

With regard to the habitat survey, dormice had been considered, traps had been laid but none had been found, no further surveys had taken place.

With regard to a possible challenge, the recommendation had been made purely in terms of policy.

Mr Lenton spoke of increases in size for various parts of the site, in fact many of the issues he raised had been reduced and there would be no increase in traffic generation. With regard to storage facilities, these would be sealed containers and the digestate would be spread on the land.

With regard to setting a precedent, the Head of Planning and Regeneration stated that undertaking works not in accordance with approved plans was not acceptable or to be condoned, however planning guidance stated that it was possible to seek to regularise unauthorised works in this way and that the application must be considered in the normal way.

With regard to the intentions of the applicant, a revised scheme had been submitted that had to be dealt with on its merits.

Consideration was given to:-

- Policy DM 22 – agricultural development
- An archaeological survey
- Whether there was room for an additional CHP unit – it was noted that this was not part of the application before Members.
- Landscaping issues
- Monitoring of conditions if approved
- Whether the plant would work continuously
- The transport assessment
- The use of the gas flare
- The environmental permit
  - Having been given so many assurances when the initial application was originally discussed, how could the original design be built so incorrectly
  - The fact that it was legitimate to seek to regularise the application.
  - The specific changes that had been made from the original application which included the bund and the additional screening
  - Scant regard of the Local Planning Authority and the lack of intention to follow the original plans and whether if the revised application had been the original application, whether it would have been approved
  - Impact of the revised scheme upon the canal conservation area
  - Whether the transport plan was out of date

**RESOLVED** that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out:

- a) the implications of the proposed reasons for refusal based on concerns regarding landscape and visual impact, the impact on the character and appearance on the Grand Western Canal conservation area, the impact on residential amenity and whether the transport plan was up to date, accurate and could be relied upon.
- b) Potential enforcement action.

(Proposed by Cllr R F Radford and seconded by Cllr P J Heal)

Notes:

- (i) Cllr K I Busch declared a personal interest as the applicant was known to him;
- (ii) Cllrs R F Radford and R L Stanley declared personal interests as some of the objectors were known to them;
- (iii) Cllrs R J Dolley and D J Knowles declared personal interests as the applicant and the objectors were known to them;
- (iv) Cllrs Mrs H Bainbridge, Mrs C Collis and R F Radford made declarations in accordance with the Protocol of Good Practice in dealing with planning matters as they were Members of the Grand Western Canal Joint Advisory Committee;
- (v) Mr Manley (Agent) spoke;

- (vi) Mrs Vinton spoke on behalf of the objectors;
- (vii) The Chairman read a statement from Halberton Parish Council;
- (viii) Cllr R F Radford spoke as Ward Member;
- (ix) Ian Winter (Environmental Health Officer) and Ian Sorenson (Devon County Council, Highways Authority) spoke;
- (x) Cllrs Mrs H Bainbridge, Mrs C Collis and Mrs F J Colthorpe requested that there vote against the decision be recorded;
- (xi) Cllrs K I Busch, D J Knowles and F W Letch requested that their abstention from voting be recorded;
- (xii) A proposal to approve the application was not supported;

The following late information was reported: the Material Considerations and Observations should read

1. Policy
2. Access and Transport
3. Landscape and visual impacts
4. Impact on neighbouring residents
5. Drainage
6. Impact upon the Grand Western Canal Conservation Area
7. Other Impacts
8. Benefits
9. Planning Balance

- There is an error on page 26 of the agenda under summary of changes point no 3. The capacity of the silage clamps should be 7844 and 7200 cubic metres rather than 3381 and 3926 as stated. This is a decrease in capacity of 644 cubic metres.
- On page 38 the Highway Authority comments of 26<sup>th</sup> November states that there is a silage clamp size increase of 2%. This is incorrect. It is a reduction of 8.9%. This has been conveyed to DCC highways
- Figure change for the Appendix 1 on page 126 of the report re feedstock the figure is incorrect for the new unit it should read 13925 not 14231 Tonnes. This is the same as the previous application.
- Revision to condition 3 page 56: Details of the colour and finish of the building materials to be used (Including the digester dome) and to be submitted to and approved in writing by the Local Planning Authority within 1 month of the date of this approval. The development shall be carried out in accordance with these details and so retained.
- Revision to the end of condition 6 page 56: ...and approved in writing by the Local Planning Authority.

***Cllrs R J Dolley and R F Radford left the meeting at this point***

- (b) No 2 on the Plans List (15/01548/MFUL - Erection of industrial units (Use Classes B1 & B2) and formation of access and parking – land at NGR 283829 99476 (Former Railway Land) Crediton).**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the site, the proposed layout, existing access, proposed elevations and floor plans, the drainage details that had been approved under reserved matters for 1 industrial unit and Members viewed photographs from various aspects of the site which identified the location and the works that had been undertaken as part of the previous application.

Consideration was given to:

- Drainage and possible flooding issues
- The narrowness of the access
- The concerns of local residents with regard to visual impact on the historic railway and the rural hinterland
- The possibility of using other areas for employment use
- Increase parking issues because of the development
- The noise from the railway already witnessed by local residents
- The need for small industrial units in the area

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with an additional condition 13 stating that: No development approved by this permission shall commence until such time that the proposer has submitted to, and the local planning authority approved in writing, details of site and floor levels.

REASON 13: For the purpose of managing flood risk, and in accordance with policy COR11.

(Proposed by Cllr J D Squire and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Cllr J M Downes declared that he had pre-determined the application and therefore could not take part in any discussions and left the meeting during the discussion thereon;
- (ii) Cllrs F W Letch and N A Way declared personal interests as they had spoken to residents regarding the application and as Members of the Town Council
- (iii) Mr Agasee spoke on behalf of the objectors;
- (iv) Cllr Mrs Brookes-Hocking (Crediton Town Council) spoke;
- (v) Cllr N A Way spoke as Ward Member;
- (vi) Cllrs K I Busch and F W Letch requested that their votes against the decision be recorded;

- (vii) Cllr R L Stanley requested that his abstention from voting be recorded;
- (viii) The following late information was reported Page 69: A further letter of objection has been, raising in particular flood issues.  
Officer response: This matter is covered by the report (see also comments below)

Page 69: The Inspector's appeal decision granting outline planning permission under 08/00307/MOUT has been circulated and is referred to as Appendix A in the report.

Page 73: Condition 6. An amended block layout plan has been received which includes the approved surface water drainage arrangements as approved under LPA ref: 13/00755/ARM and referred to at condition 6 as being required as part of the proposals as submitted.

Page 51: Add condition 13 and reason as follows. Although noted in the main body of the report on page 41, it was not included in the recommendation section

Condition 13: No development approved by this permission shall commence until such time that the proposer has submitted to, and the local planning authority approved in writing, details of site and floor levels.

REASON 13: For the purpose of managing flood risk, and in accordance with policy COR11.

- (c) No 3 on the Plans List ***(15/01571/MFUL - Erection of 5 additional poultry units (5040 sq.m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure – land at NGR 283175 113696 (Menchine Farm) Nomansland).***

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan and the areas visited the previous day by the Committee. He outlined an indicative landscape scheme and the proposed sections through the site, proposed elevations of the sheds and the biomass plant room and Members viewed photographs from various aspects of the site.

He addressed the issues raised at public question time, noting the economic benefits of the scheme. With regard to Mr Baxter's comments, he stated that any decision made would not prejudice the appeal that would take place at the end of the month. Environmental Health officers would monitor any odour nuisance which would also be monitored by the Environment Agency under the environmental permit; the business aspects of chicken farming was not a material consideration when dealing with the planning application.

Consideration was given to:

- The size of the proposed development
- Increased vehicle movement and size of vehicles

- Feeding of the biomass unit and vehicle movement with regard to this
- The need for Condition 8 to be clarified
- Farm diversification
- Landscaping should mitigate any visual impact
- Waste would be transferred straight to the AD plant
- Concerns of the local residents and businesses with regard to odour emissions
- Industrialisation in the countryside
- Cumulative effect with regard to similar businesses in the area

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with the exception of Condition 8 where the Head of Planning and Regeneration be given delegated authority to review it to consider the effectiveness of the wording of the condition.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Cllr Mrs F J Colthorpe declared a personal interest as Mr Cole and his extended family were known to her and she also knew many of the residents in the area;
- (ii) Cllr S G Flaws declared a personal interest as one of the objectors was known to him;
- (iii) Cllrs B A Moore and R L Stanley declared personal interests as they knew objectors to the application;
- (iv) Mr Cole (applicant) spoke;
- (v) Mr Lloyd spoke on behalf of the objectors;
- (vi) Cllr Grant spoke on behalf of Thelbridge Parish Council;
- (vii) The Chairman read statements from Cllrs Mrs J B Binks and Mrs M E Squires (Ward Members);
- (viii) Cllr R L Stanley requested that his vote against the decision be recorded;
- (ix) The following late information was reported: Page 86: The West Country Free Range Farmers group have confirmed that they do not object to the proposals.

In addition 3 further objections have been received : Concerns remain regards the scope of net additional trips on the highway that would be generated, linked trips between Menchine Farm and other farms in the locality transporting chicken waste to the site, the perceived industrialisation of the locality and the need for a farm waste plan.

Officer response: Clarity has been provided on these matters in the report as circulated.

- (d) No 4 on the Plans List (*15/012611/MFUL - Erection of 5 additional poultry units (5040 sq.m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure – land at NGR 285047 114124 (Edgeworthy Farm) Nomansland*).

The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the elevations of the proposed chicken sheds, biomass plant room and office. Visualisations submitted by the applicant were viewed along with photographs from various aspects of the site. He stated that Environmental Health officers were satisfied with odour management and a permit issued by the Environment Agency would be required. He addressed the issues with regard to any cumulative impact of the AD plant and the wind turbines and that the chicken litter would be moved to the AD plant at Menchine farm

Consideration was given to:

- The need for the applicant to diversify and that farmers had to invest in the future
- Cumulative effect
- Traffic movements and highway issues
- Industrialisation of the countryside
- The need for conditions to be reinforced
- The need for condition 8 to be clarified
- Transport routes

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with the exception of Condition 8 where the Head of Planning and Regeneration be given delegated authority to review it to consider the effectiveness of the wording of the condition.

(Proposed by Cllr P J Heal and seconded by Cllr K I Busch)

Notes:

- (i) Cllr Mrs F J Colthorpe declared a personal interest as the applicant and some of the objectors were known to her, she was also the Ward Member;
- (ii) Cllrs B A Moore and R L Stanley declared personal interests as objectors to the scheme were known to them;
- (iii) Mr Lake (applicant) spoke;
- (iv) Miss Coffin spoke on behalf of the objectors;
- (v) Cllr R L Stanley requested that his vote against the decision be recorded;
- (vi) Cllr B A Moore requested that his abstention from voting be recorded.



105 **THE DELEGATED LIST (5-11-17)**

The Committee **NOTED** the decisions contained in the Delegated List \*.

Note: \*List previously circulated; copy attached to signed Minutes.

106 **MAJOR APPLICATIONS WITH NO DECISION (5-11-33)**

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

It was **AGREED** that:

Application 15/01822/MFUL - Alexandra Lodge, Tiverton be brought before the Committee for determination and that a site visit take place.

107 **APPEAL DECISIONS (5-12-44)**

The Committee had before it and **NOTED** a list of appeal decisions \* providing information on the outcome of recent planning appeals.

Note: \* List previously circulated; copy attached to signed Minutes.

(The meeting ended at 8.04 pm)

**CHAIRMAN**



# Agenda Item 5

## PLANNING COMMITTEE AGENDA – 10<sup>th</sup> February 1016

### Enforcement List

<u>Item No.</u>	Description
1.	Unauthorised material change of use of land from private park to mixed use of private park and use for the siting of caravans for human habitation at Langford Park Ltd, Langford Road, Langford, Newton St Cyres.

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Case No. ENF/11/00034/UCU

Grid Ref: 290195 97265

**Address:**

Langford Park Ltd, Langford Road, Langford, Newton St Cyres

**Alleged Breach:**

Unauthorised material change of use of land from private park to mixed use of private park and use for the siting of caravans for human habitation.

**Recommendations:**

That the Legal Services Manager be authorised to take any appropriate legal action including the service of a notice or notices seeking the removal of the caravans and the cessation of the use of the land for the unauthorised siting of caravans for human habitation. In addition, in the event of a failure to comply with any notice issued, authority to prosecute, take direct action and/or authority to seek a court injunction.

**Site Description:**

Langford Park Ltd, Langford Road, Langford, Newton St Cyres

Langford Park care home is a large detached property set in its own park land. To the rear of the main house and partially screened from view are sited four caravans (mobile homes), not visible to persons using the main drive to the house.

**Site Plan:**



**Site History:**

77/01677/FULL	Outline application for change of use from store to two units of holiday farmhouse accommodation	PERMIT
78/00449/FULL	Conversion of barn into four holiday flats and provision of new access	PERMIT
80/00800/FULL	Conversion of outbuilding into residential unit	PERMIT
80/01194/FULL	Conversion of existing cider barn into 5 private residential units; construction of garage court and access to Langford Road.	PERMIT
81/02102/FULL	Conversion of outbuilding into 2 units	PERMIT
82/01956/FULL	Conversion of existing house and redundant barn into a registered nursing home, construction of new access drive, car parks and landscaping.	PERMIT
86/00665/FULL	Erection of extensions and conversion of existing building to form an additional ten units of accommodation for nursing home	PERMIT
86/01483/FULL	Change of use of second floor flat and staff quarters into nursing home accommodation and formation of dormer windows	PERMIT
87/01484/FULL	Erection of extension to provide two bedrooms and w.cs	PERMIT
88/00780/FULL	Erection of extension to form staff room and office	PERMIT
89/02188/OUT	Outline for the erection of twenty units for homes for the aged	REFUSE
90/01311/FULL	Erection of extension	PERMIT
91/01702/FULL	Erection of boiler house extension	PERMIT
92/01689/FULL	Erection of a conservatory	PERMIT
92/01993/FULL	Erection of four bedroom extension	PERMIT
92/02009/FULL	Erection of porch to north elevation	PERMIT
93/00702/FULL	Erection of extension to form laundry	PERMIT
97/00172/FULL	Alterations to outbuilding (Revised Scheme)	PERMIT
99/02257/FULL	Retention of slate-clad roof extension	REFUSE
99/02959/FULL	Formation of roof extension (Revised Scheme)	PERMIT
04/02526/FULL	Erection of covered access way	PERMIT

07/00010/FULL	Erection of extension to residents lounge	PERMIT
09/01540/FULL	Erection of a two-storey extension	PERMIT
10/01907/FULL	Conversion of annexe to provide 5 additional bedrooms and retain common room	REFUSE
11/01355/FULL	Conversion and extension of existing outbuilding to provide 6 additional bedrooms for nursing home (Revised Scheme)	PERMIT
12/00398/FULL	Erection of extension	PERMIT
14/01852/FULL	Variation of condition (2) of planning permission 11/01355/FULL to allow the substitution of previously approved plans	PERMIT

**Development Plan Policies:**

National Planning Policy Framework

**Mid Devon Core Strategy (Local Plan 1)**

COR 18 - Countryside

**Mid Devon Local Plan Part 3 (Development Management Policies)**

DM2 - High Quality Design

DM10 - Rural Workers Dwellings

DM31 - Enforcement

**Reasons/Material Considerations:**

Langford Park is a long established residential care home situated at Langford, Newton St Cyres, between Crediton and Exeter.

The current company running the business, Langford Park Limited have made various changes and upgrades to the buildings on site. Included in these changes have been the siting of four caravans for human habitation. It is believed that they are occupied by staff members, working at the home.

Your officers have been in communication with the owner, with a view to getting a formal application, either to extend existing buildings to provide staff accommodation or to retain the caravans on the land temporarily until such time as another resolution can be found. Unfortunately, these discussions have not lead to any applications coming forward to date and in order to prevent the current caravans achieving any immunity status through the passage of time, your officers are now seeking a resolution to take formal action seeking the removal of the caravans and the cessation of the use of the land for the unauthorised siting of caravans for human habitation.

**Human Rights and Equality Issues:**

Any formal enforcement action could be considered to affect the land/property owner/occupiers human rights under the provisions of Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. The human rights of those residing in the caravans must be borne in mind, but it is felt that the owners have it within their capabilities to source alternative accommodation, thus reducing the effect on those residents.

**Options for action or remedy:**

The list of options available is as follows:

**Take no action:**

To take no action in this case is not seen as the appropriate course of action. To allow development by stealth, in accepting the caravans, could lead to them being let to persons not connected to the residential home.

Seek an application to regularise the use of the land for the temporary siting of the caravans - This is a possible course of action and one that your officers have been pursuing, but to date no such applications have been forthcoming.

Issue and Enforcement Notice seeking the removal of the caravans from the land and the cessation of the use of the land for the unauthorised siting of caravans - This is seen by your officers as the most appropriate course of action.

**Reasons for Decision:**

The breach of planning control has taken place within the last ten years. It is contrary to policies in both the Mid Devon Local Plan Part 3 and the Mid Devon Core Strategy 2007.

Although it may be possible to regularise the situation with a planning permission, any such permission would have to be conditional and the Local Planning Authority would not consider issuing an unconditional permission.

**Steps Required:**

1. Cease the use of the land for the siting of unauthorised caravans for human habitation.
2. Remove any caravans from the land.

**Period for Compliance:**

1. and 2. Six months from the date the notice takes effect.

## PLANNING COMMITTEE AGENDA - 10th February 2016

### Applications of a non-delegated nature

- | <u>Item No.</u> | Description  |
|-----------------|--|
| 1.              | <p>15/01622/FULL - Erection of an agricultural worker's dwelling and an agricultural livestock building at Land at NGR 316711 110152 (Ten Oaks Farm), Clayhidon, Devon.</p> <p><b>RECOMMENDATION</b><br/>Subject to the provision of a Section 106 Agreement/Unilateral Undertaking and conditions grant permission.</p> |
| 2.              | <p>15/01672/FULL - Removal of Condition 3 (holiday occupancy condition) of Planning Permission 05/01218/FULL at The Barn, Pugham Farm, Westleigh.</p> <p><b>RECOMMENDATION</b><br/>Refuse permission.</p>  |

**Application No. 15/01622/FULL**

**Plans List No. 1**

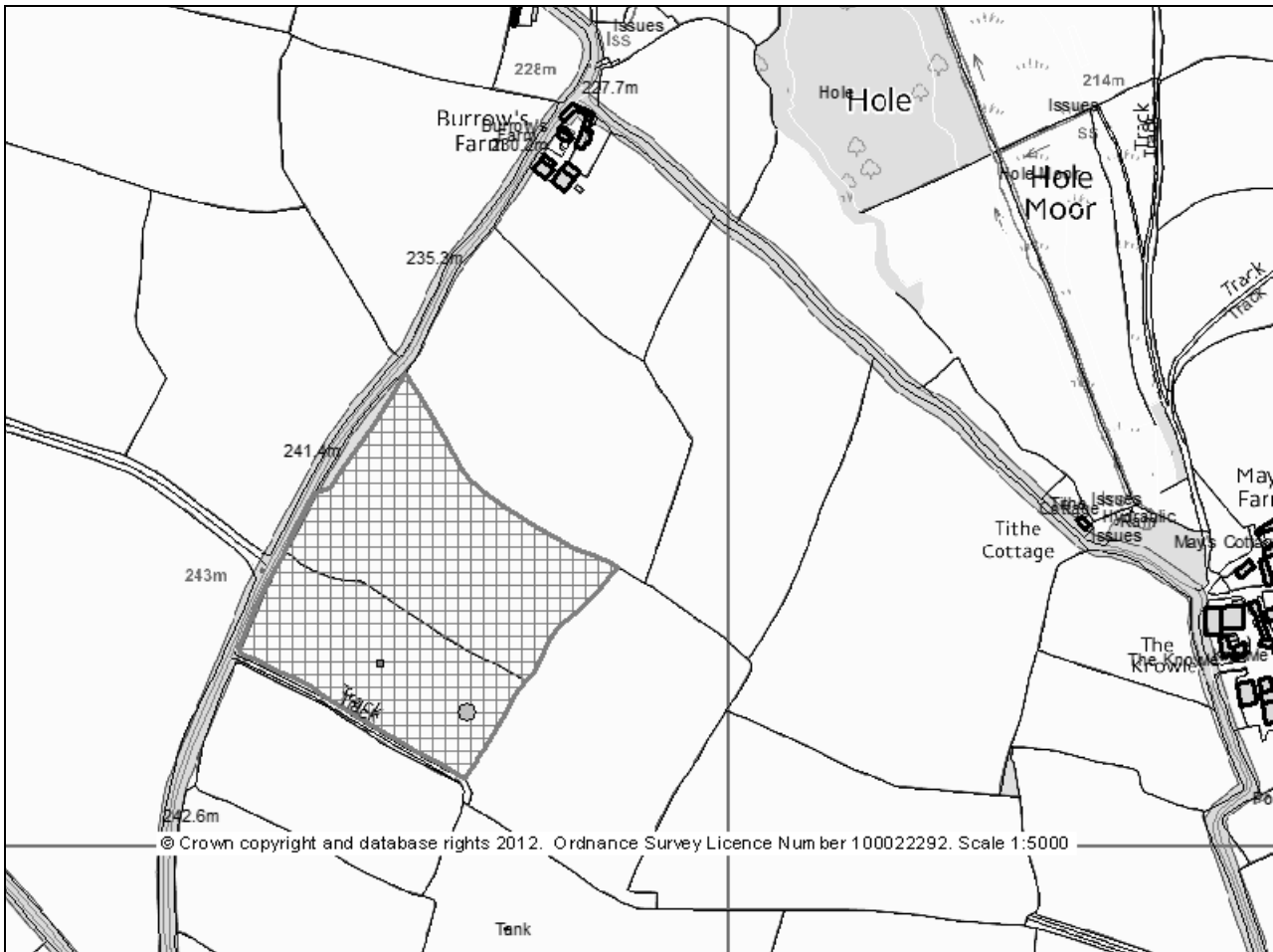
**Grid Ref:** 316711 : 110152

**Applicant:** Mr R Greenhill

**Location:** Land at NGR 316711 110152 (Ten Oaks Farm)  
Clayhidon Devon

**Proposal:** Erection of an agricultural worker's dwelling and an  
agricultural livestock building

**Date Valid:** 20th October 2015





## **Application No. 15/01622/FULL**

### **RECOMMENDATION**

Subject to the provision of a Section 106 Agreement/Unilateral Undertaking and conditions grant permission.

### **COUNCILLOR FRANK ROSAMOND HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:**

To consider the absence of an effective business plan sufficient to justify the application, allied to concerns in respect of the water supply.

To update Planning Committee following a request for further information at the meeting on 2nd December 2015.

### **Updated information**

At the Planning Committee held on 2nd December 2015 Members of Planning Committee requested officers to obtain additional information on three matters:

- 1 Financial sustainability
- 2 Water supply and sufficiency of the supply, including storage capacity.
- 3 Sufficiency of the land area available for the enterprise. To show the time livestock is in the building is kept outside

### **As set out by the applicants agent below in response to your officers request for further information.**

The Inspector's decision to grant the Appeal was: 'to facilitate the further expansion and development of the agricultural enterprise'. This application is for that further expansion and development.

- 1) The documents supporting this application evidence that the agricultural enterprise is currently financially sound. Moreover, approval will increase income as a result of expansion and improved efficiency as set out with the projected financial returns.

Regarding the request by Members for the applicant to divulge private financial funding information; officers will no doubt advise Members about whether or not proof of capital funding for a development proposal is a prerequisite of approval; and if it fulfils any planning purpose. Adopting a rational approach, 'the proof of the pudding is in the eating'. It is self-evident that if finances are not available the proposed development will not occur.

Officer comment: No additional information has been provided over and above the agent's comments above. Your officers have asked for copies of sales and purchase receipts but these have not yet been supplied, although the applicant is considering this further. Should these be provided, Members will be updated on this. Members have been informed that the financial information already provided as to the viability of the unit is available for scrutiny within the planning office, should they wish to consider these figures, but is not replicated in their public officer report due to its confidential nature.

- 2) Turning to adequacy of 'rainwater harvesting' water supply for the livestock. First and foremost this is a matter that falls under the 'Animal Welfare Act 2006', just as when this Council grants permission for industrial premises the welfare of workers falls under the 'Health and Safety at Work Act'. Thus, the appropriate 'safeguards' exist.

Secondly, 'rainwater harvesting' is recognised as highly sustainable source of both commercial and domestic water supply which should be encouraged, alongside alternative energy sources, independent of 'mains supplies'.

It is evident that this enterprise has successfully operated from the existing 'rainwater harvesting' system and treatment plant for the past four years. The risk of inadequate water supply with this enterprise in comparison to other livestock farms, particularly 'dairy', that employ a private water supply, is low, for the calves are rotated every 10 weeks. Thus all that is required is 10 weeks storage, which can adequately be met, by installing the same system with the second barn.

Current storage capacity is x 2 - 10,000L tanks and 1,000L storage in the existing livestock barn - 21,000L. The current 50 head of young calves consume an average of 5L per day, 1,750L per week over 10 weeks. Allowing for 12 weeks, this equates to 21,000L; adding domestic usage 2,750L over the same period totals 23,750L,- Obviously, this requirement will double to 47,500L with the introduction of the second livestock barn. Adding a contingency of 25% equates to 59,375L storage capacity. This would be met by installing an additional 4no 10,000L tanks. Thus the enterprise could operate for 3 months without any rainfall (frequently, there has been rainfall in excess of requirement, which has been diverted to the nearby ditch). Moreover, in the event of severe drought, incoming stocking can cease. In this regard this enterprise is much less at risk than established beef, dairy or arable farms.

The Inspector during her examination of the current enterprise found no reason to dismiss on the grounds that the water supply system was inadequate. There is no reason to doubt that provided that the same system is employed with the second (applied for) livestock building there would be self-sufficiency of water supply.

Nevertheless, there is a contingency, that of a private 'bore hole' water supply. I attach an email dated the 16th December 2015 from 'Geologic boreholes' stating that the location is suitable for borehole water supply; and attaches data regarding 'Knowle Farm, just 2km distance. Stating that the borehole at 'Knowle Farm produces 2,200L per hr. The geology is consistent, so there is no reason not to conclude that the same volume of water could be extracted. Thus the daily water requirement at Ten Oaks Farm could be met in 20 minutes. Obviously that volume of water is well in excess of the maximum requirement of 706L per day.

Officer comment: It is evident that there is sufficient appropriate water for the number of livestock to be kept on the land at any one time, with a possible alternative source if required by way of a bore hole. The existing livestock business has operated on the basis of rainwater harvesting for the past 4 years.

3) The adequacy of grazing land has to be considered in the specific context of this enterprise. The stock is 2 -12 week old calves rotated. Hence there will be 50 head of 2 week old new arrivals and 50 head of 7 week old calves at a time. The stock are kept within the building until approximately 6-8 weeks of age, when they are weaned over a period of 4-6 weeks and introduced to grazing in addition to continuing being fed prepared feed; after which they leave site. Thus, over a 10 week period 50 head of stock will only graze for a period of 4-6 weeks. Being young calves they only lightly graze the land, hence the need to keep a small flock of 40 ewes to keep the grass under control. The stock being rotated every 10 weeks provides a period of 2 weeks between rotations to sterilise the buildings and carry out maintenance, and leeway in the event of late arrival or departure of stock. For the past four years, one field has been sufficient for grazing, the other providing hay. Thus there is a contingency that both fields could be utilized for grazing. As noted with the water supply, in the event of severe drought depleting grass growth, stocking can cease; or borehole water can be used to irrigate the pasture.

The National Planning Policy Framework advises 'approving development proposals that accord with the development plan without delay'. In the event of your Council deciding to refuse this application or further delay a decision, an appeal together with an application for 'costs' against this Council will ensue.

Officer comment: The above information appears to demonstrate that there is sufficient land available for the intended stock levels.

4) 'All progeny is sold either privately or through Sedgemoor or Exeter Livestock Markets and the applicants have been mentioned within market reports for the quality and prices achieved for their stock'. This addresses a multitude of objections and concerns raised at the Meeting of the 2nd December 2015.

Conclusion:

Based on the information provided to date, your officers continue to recommend approved, subject to conditions.

## **PROPOSED DEVELOPMENT**

The Application seeks the erection of a permanent agricultural worker's dwelling and an agricultural livestock building. This application follows the approval of a temporary mobile agricultural worker's dwelling under appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012.

The previous application and approval established on similar numbers of stock that there was an essential need for a dwelling to support the developing livestock enterprise was sufficiently demonstrated and thus that the proposal does not conflict with Core Strategy Policy COR18 or with the National Planning Policy Framework. (The Framework).

Where essential need is established standard national policy is to provide in the first instance a temporary unit of accommodation over a 3 year time period to establish the viability of the unit.

In this case a temporary consent was granted through a planning appeal some questions arose in relation to the size to which the enterprise might ultimately grow, given the current absence of any mains services and the likely costs of providing these in due course. Nonetheless, given the clear support in the Framework for the development (and not just the diversification) of agricultural businesses, allowing the dwelling on a temporary basis is justified to facilitate the further establishment and development of the livestock enterprise.

Therefore the main issues with regard to this proposal are:

1. Is the existing enterprise based on sound financial basis
2. Are there sufficient services for the enterprise

## **APPLICANT'S SUPPORTING INFORMATION**

Agricultural Appraisal  
Foul drainage Assessment Form  
Design and Access Statement  
Breakdown of income and expenditure (Confidential)

## **PLANNING HISTORY**

10/01749/FULL Erection of an agricultural livestock/storage building - PERMIT  
11/01618/FULL Retention of caravan for occupation by agricultural worker for temporary period of 3 years; and retention of agricultural track and formation of new track and hardstanding- REFUSED (APPEAL ALLOWED 07.09.12)  
15/01206/FULL Erection of dwelling and garage to replace existing caravan - Withdrawn

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Core Strategy (Local Plan 1)**

COR2 - Local Distinctiveness  
COR18 - Countryside

### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM2 - High quality design  
DM8 - Parking  
DM10 - Rural workers dwellings  
DM14 - Design of housing  
DM22 - Agricultural development  
DM29 - Protected landscapes  
DM15 - Dwelling sizes

### **CONSULTATIONS**

HIGHWAY AUTHORITY - 30th October 2015

Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

For domestic vehicular accesses from adopted highway into privately owned property (serving up to 3 dwellings) the arrangement must comply with Part One, Sections 3.10, 3.11 and 7.4 of Devon County Council's Highways in Residential and Commercial Estates Design Guide. For driveway gradients a maximum of 10% is preferred although each site must be considered on its merits.

ENVIRONMENT AGENCY - 19th November 2015 - Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

CLAYHIDON PARISH COUNCIL - 13th November 2015

The council does not support the application and makes the following observations.

The parish council has considered the re-submission and remains of the view that there is no viable and sustainable agricultural evidence presented to support the expired temporary permission, let alone the permanent dwelling application.

This would set an unwelcome precedent reference achieving a new dwelling. At just 12 acres, any agricultural tie would be meaningless. The location in open countryside remains a key consideration. Potentially a series of applications would destroy the essential character of this area of the Blackdown Hills.

The information contained in the Agricultural Appraisal shows a standard man day calculation of 1.67 based on 200 calves per annum. This is incorrect. The total number of calves at any one time is currently 50. If the new agricultural building is approved the numbers are proposed to double. This does not equate to 1 full time worker needed to be present at all times of the day and night for the proper functioning of the enterprise.

It has been reported that the Planning Notice was erected for four hours on one day and then removed.

The council has concerns over the water supply on site. The water is being harvested from the roof. Is this sustainable?

ENVIRONMENTAL HEALTH - 3rd November 2015

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Environmental Permitting N/A

Drainage - no objections to these proposals

Noise & other nuisances - no objections to these proposals

Housing Standards - no objections to these proposals

Licensing - No comment

Food Hygiene - N/A

Private Water Supplies - INFORMATIVE NOTE:

No record is held as being a private supply. However, if a private water supply is to be used together with any other associated property, the supply would become a small private supply, unless a commercial element is involved when it would become a commercial supply. In either circumstance would be subject to the Private Water Supply Regulations 2009. As such a private water risk assessment and sampling regime will need to be undertaken by this Authority prior to any residential or commercial use. Please contact Public Health at Mid Devon District Council to discuss on completion of the proposal.  
Health and Safety - no objections to this proposal

## **REPRESENTATIONS**

There have been two representations

- 1) This is inappropriate development within the AONB.
- 2) There are inaccuracies in the application
- 3) Not proved its viability

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The primary material considerations in assessing this application are:-**

### **1) Previous appeal decision for siting of temporary mobile unit**

### **2) Agricultural Workers Dwelling**

### **3) Agricultural Building**

#### **1. Previous appeal decision for siting of temporary mobile unit**

See attached appeal decision Appendix 1

#### **2. Agricultural Workers Dwelling**

The site is within the Blackdown Hills AONB. The holding extends to approximately 5.1 hectares of relatively level pasture land in two fields. The north western boundaries of the two fields front onto an unclassified public highway off which the site is accessed. The caravan which the applicant is residing in (granted temporary consent in 2012 under appeal Ref: APP/ Y1138/A/12/2172238) is located in the northern corner of the southernmost field, close to the south eastern boundary. The existing agricultural building is located further to the south of the caravan with a stone track from the access to the highway and running along the southern boundary of the field. Timber post and rail fencing has been installed around the field in order to separate the pasture land from the recent developments (track, caravan, building).

The proposal is to provide a modest permanent chalet style bungalow, located on the footprint of the existing mobile unit and its veranda. In addition the proposal is to provide a further agricultural building located to the south of the existing building, along with an intervening concrete yard.

The site is in an isolated rural location where prevailing national and local planning policies restrict the provision of new residential dwellings and the residential use of land unless there is a proven need for an agricultural (or other rural) worker to reside on a holding. Policy COR18 of Mid Devon Core Strategy is a relevant policy as is DM10 (rural workers dwellings) of the Local Plan Part 3. In addition the National Planning Policy Framework (NPPF) sets out the criteria or other means of establishing whether or not there is an 'essential' need for such a dwelling. In addition Planning Policy Statement 7 Annexe A although superseded is still considered to be a suitable guide/tool to help assess such applications.

Policy DM10 has 4 elements

- a) It can be demonstrated that the nature and demands of an existing rural business are such that a full time worker has an essential need to be permanently resident at or near their place of work so they are available most times.

An assessment of the labour requirement for the holding has been provided in support of the application. This states that based on the rearing of 200 calves annually and including some time for maintenance and cutting hay, the annual labour requirement is 501.80 standard man days, with 426 of these days being attributed to the management of the calves. This assessment has been made using The Agriculture Budgeting and Costing Book for derivation of labour requirements. These figures are the same as those provided for the 2011 application and the subsequent appeal. At the time of the appeal the applicant had just reached the 50 calves per quarter.

The appeal established "the key element of the functional test is not the amount of labour required but whether it is essential for a worker to be readily available at most times, including at night. Very young calves are susceptible to infection, such that regular monitoring and prompt intervention are required for the success of the enterprise, and I heard that other emergencies can also arise during the night-time period. Given the nature and scale of the enterprise, I accept it is necessary for a worker to be on hand at night. The security benefits of an on-site presence also weigh in favour of the proposal. I conclude therefore that the functional test is met". Therefore the functional/essential need has been established through the previous appeal. That there is a requirement for at least one worker to be present at most times and therefore there is an essential need. This has not changed from this appeal date, with regard to the essential need.

In the appeal decision, the Inspector noted that given the clear support in the Framework for the development of agricultural businesses, allowing the dwelling on a temporary basis was justified to facilitate the further establishment and development of the livestock enterprise. He stated that in due course, the Council is likely to expect comprehensive and detailed information to demonstrate the sustained continuation and/or development of the enterprise throughout the period of the temporary permission. The applicant has sustained the enterprise at the level on which the appeal Inspector established there was an essential need to live on site, and intends to develop the business further by an increase in the numbers of calves on site. In this respect, the applicant is also applying for a further livestock building as part of this application.

Officers requested further information on the water supply as the cost of mains water installation would negatively affect the finances of the farm holding.

The present water supply by way of rain water harvesting has operated sufficiently for the last 4 years, the additional agricultural building will provide further water supply for the needs of the expanding unit. The agent has therefore commented that the sufficiency of this approach has been proven and with the roof area of the new historic building, rainwater harvesting will continue to be sufficient to secure the needs of the expanded holding in the future. No details of water use or storage in terms of volume have been provided. Sufficiency of water for stock is covered by other welfare standards. Given the arrangement has been demonstrated over the last 4 years, on balance it is considered acceptable.

- b) The need cannot be met within a nearby settlement, or by existing housing at or near the site or through the conversion of a suitable redundant or disused rural building at the site.

It was agreed between the Local Authority and the applicant at the time of the appeal that there is no other suitable and available dwelling in the immediate locality. Having undertaken a search on the Internet there are still no available properties within very close proximity to the site either to rent or buy. Therefore the need established within the appeal approval is unable to be satisfied by external means. Therefore the application meets this test of the Local Plan DM10.

- c) The size and scale of rural workers dwellings will be commensurate with the scale of the operation and designed to reflect the location and setting of the proposed site.

The inspector stated in paragraph 13 of the appeal that - With regard to the proposal's visual impact on the character and natural beauty of the AONB surroundings, the caravan, tract are well screened by existing hedging. Moreover the surrounding countryside is relatively flat, such that the development has little long range views. Thus no harm is caused to the character of the AONB landscape.

The application proposes a modest 2/3bedroomed chalet bungalow with a main foot print of 9.35m x 8.5m with an attached single storey section measuring 5.6m x 3.3m, the overall floor area being 130sqm measured externally. It is considered that this size of dwelling is appropriate for the size of unit and will have no major impact on the AONB or neighbouring properties. The change from a mobile unit to this modest dwelling will provide a more appropriate scheme for the AONB. The design is simple and will sit in the landscape appropriately and is close to the calf sheds to provide security and observation. In addition the size of the dwelling complies with space requirements set out at DM15 and the recent technical housing standards - nationally described space standard. There are no details as to the proposed materials therefore these will be conditioned. It is considered the proposed modest dwelling meets with Local Plan Part 3 policy DM10 and policy DM14 which relates to the design of new housing.

- d) The rural enterprise has been established for at least three years, is currently financially sound, and has a clear prospect of remaining so.

The business has been running for a period of 4 years and details have been provided of accounts over this time period which detail income and outgoings. These are commercially sensitive and are not within the public domain. Net and gross Income is shown to be stable over the period, and providing a small but acceptable income for the size of the unit. The intention is to double the number of calves following the installation of the new agricultural building. Financial projections of the business following the erection and stocking of the sound agricultural building have been provided. They show an increasing business profit. On balance it is considered that this element has been met and is compliant with DM10.

The appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012 raised some questions with regard to the lack of main services and in particular if the proposed enterprise could grow without it. The applicant has now provided a septic tank for the use of the caravan and continues to use water collected from rain sources, in addition electricity is now by mains supply with a backup generator. Although there is no specific mains water it is concluded that the increase in the number of buildings will provide additional water for the use of the site through rainwater harvesting. Potable water will need to be monitored and checked by the Environmental Health section of this Authority. The intention is to double the output of the unit hence the inclusion within the application for a new barn to cater for this. The essential benefit of this additional building is that of efficiency of the calf rearing enterprise, to allow rotation of stock from one building to another at 6-8 weeks. This will save time of dismantling, storing and re-erecting the pens. It will also allow more flexibility in the time periods for keeping stock.

It has been confirmed by the applicant that the cost of providing the agricultural workers dwelling and livestock building are not dependent upon the income from the agricultural enterprise itself. Therefore there are no perceived issues with regard to the sustainability and financial operation of the unit.

Policy AL/IN/3 makes clear that new housing developments will provide at least 60sqm of equipped and landscaped public open space per market dwelling, or a contribution per dwelling in accordance with the SPD. The SPD makes clear in paragraph 14 that the scheme for collecting contributions for off-site provision applies to all new housing, including single dwellings, whether built as tied accommodation, conversions of existing buildings, flats, maisonettes or permanent mobile homes. There is therefore a clear policy justification for this contribution.

A financial contribution of £1442 towards public open space provision is still to be made in respect of Policy AL/IN/3 and a unilateral undertaking has been sent for signature.

Any Positive decision will need to be withheld until payment has been received or alternatively a legal basis established to secure it via S106.

#### New Homes Bonus

Consideration should be given to the New Homes Bonus that would be generated by this application. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 6 years. The amount of New Homes Bonus that would be generated from the proposal over a period of 6 years is therefore estimated to be £6,168

For the reasons given above, the proposed development is considered to comply with the policies of the adopted Development Plan, and therefore approval is recommended.

### 3. Agricultural Building

This application also seeks planning permission for the erection of an agricultural livestock building measuring 12 metres x 30.5 metres x 4.2 metres to eaves and 5.5 metres to ridge. The southeast elevation is proposed to be entirely open to the three bays with the provision of galvanized steel feed barriers on the remaining two bays; the remaining three elevations are proposed to have 1.5 metre high horizontal tongue and groove dung boarding with Yorkshire boarding above and with the additional provision of a galvanized sheeted gate on the south west elevation. The building is proposed to be roofed in steel metal sheeting. The overall design of the building adequately reflects the intended agricultural nature of its use.

The agricultural barn is to be provided immediately to the west of the existing barn and to be constructed in similar materials and of a size similar to that of the existing barn. Between the two barns a concrete hard standing is to be provided. The primary purpose is to support farming activities related to the land holding and the building is needed for that purpose. The new barn will also allow the enterprise to develop further.

The site lies within the Blackdown Hills AONB where new development should not harm the special beauty of the area. The building is proposed to be located at the furthest point from the public highway, which is approximately 170 metres. Although the building will be visible from the public highway, it is not felt that the proposal will harm the overall beauty of the locality and will largely preserve the unspoilt and rural character of the area, as the building will be seen in context with the existing agricultural building. It will provide needed additional cover for the expanding business. In appropriate cases the Council will consider the need to require that the building be removed when it is no longer required for agricultural purposes and the site reinstated to its former use. Given the location of the site within the sensitive Blackdown Hills AONB and the relatively large size of the building (in conjunction with the previous approval) in relation to the overall size of the current land holding, a condition to this effect is considered to be reasonable and necessary and is therefore recommended for imposition.

The proposal is for a building which will be seen in context of the existing agricultural building and as such will meet with the requirements of DM29 in particular the character and setting within the special qualities of the landscape. The building will only be seen from the immediate highway. The biodiversity will not be impacted and linking habitats will be retained.

It is considered that the proposal meets and complies with the appropriate policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan 1) and DM2, DM22, and DM29 of the Local Plan 3 of the (Development Management Policies).

#### CONDITIONS

1. The Agricultural Workers dwelling and agricultural livestock building hereby permitted shall be begun before the expiration of 1 year 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. No development shall begin until details or samples of the colour and finish of the materials to be used for the external surfaces of the dwelling and agricultural livestock building have been submitted to and approved in writing by the Local Planning Authority, such approved details or samples shall be so retained.
4. The agricultural livestock building hereby approved will be brought into its intended use prior to the occupation of the agricultural workers dwelling.
5. The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined by Section 336(i) of The Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person, or to any dependants.
6. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes [A, B, C, and E of Part 1 relating to the enlargement of a dwellinghouse or addition or alteration to the roof of a dwellinghouse or the provision of any building or enclosure, swimming or other pool within the dwelling curtilage.
7. On the agricultural livestock building becoming redundant for the use applied for or any agricultural use, it shall be demolished and all resultant materials removed from site within 3 years of redundancy.
8. To safeguard the rural character of the area & special qualities of the Area of Outstanding Natural Beauty in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1) and Policy DM22 of Local Plan Part 3 (Development Management Policies).

#### **REASONS FOR CONDITIONS**

1. To ensure that the accommodation continues to meet with the needs of an essential rural worker in connection with the existing agricultural enterprise where it has been established that there will be a functional need for permanent accommodation on the site and for the business to develop in the way envisaged.
2. For the avoidance of doubt and in the interests of proper planning.
3. To protect the visual amenities of the area in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 and DM29 of the Local Plan Part 3 of the (Development Management Policies).
4. To ensure the farm holding is able to continue to expand, to be financially sound meeting projections and to ensure the barn is built in accordance with the scheme proposed.
5. The site is located outside defined settlement limits in the open countryside, where national and local planning policy resists the erection of new dwellings without special agricultural/occupational justification in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1) and guidance in National Planning Policy Framework (NPPF).
6. To safeguard the visual amenities of the area and to ensure that the dwelling remains of a size commensurate with the needs of the agricultural holding to which it relates, in accordance with policy DM10 of the Local Plan Part 3 of the (Development Management Policies).

#### **INFORMATIVE NOTE**

1. The applicant is advised that the Local Planning Authority is unlikely to view favourably any future applications to enlarge the size of this agricultural worker's dwelling.

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

The current proposal is acceptable in that the applicant has demonstrated an essential need for a rural worker to live at or near their place of work in the countryside and that there are no existing dwellings available to fulfil that need. The siting, layout, scale and massing of the dwelling is considered to be acceptable and there will not be any unreasonable impacts on the visual or other environmental amenities of the area, highways safety or any neighbouring occupiers.

The proposed agricultural building is considered to be reasonably necessary for the purposes of agriculture on the holding and is sited in an appropriate location on the land. Its design adequately reflects the agricultural nature of the development. The site is located within the Area of Outstanding Natural Beauty and the proposal is acceptable in the respect of the impact on its character, appearance or other aspects of its natural beauty. Accordingly the application complies with policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM2, DM22, and DM29 of the Local Plan Part 3 of the Development Management Policies).

**Application No. 15/01672/FULL**

**Plans List No. 2**

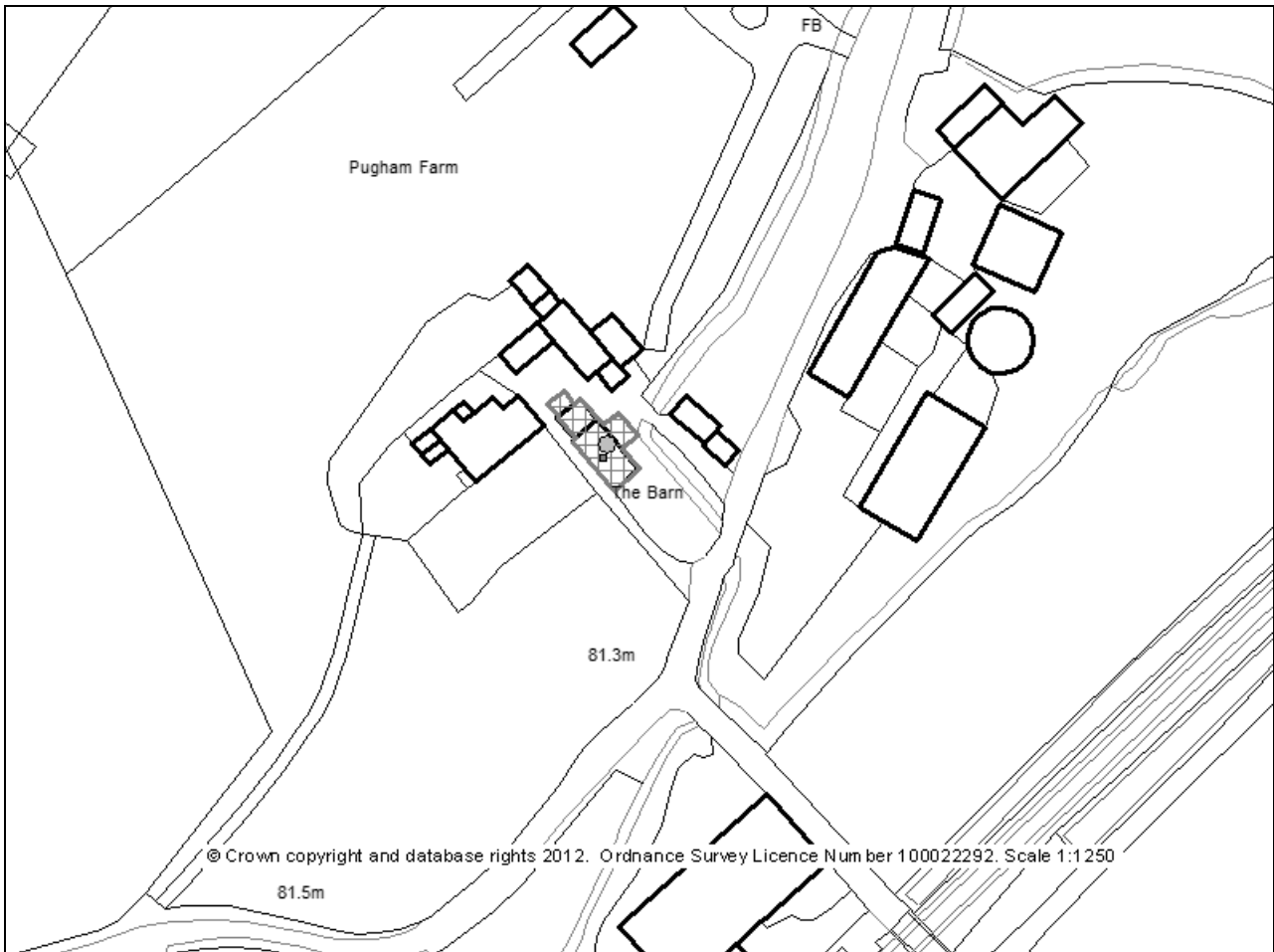
**Grid Ref:** 305661 : 115266

**Applicant:** Mr G Moore

**Location:** The Barn Pugham Farm Westleigh Tiverton

**Proposal:** Removal of Condition 3 (holiday occupancy condition)  
of Planning Permission 05/01218/FULL

**Date Valid:** 29th October 2015



## **Application No. 15/01672/FULL**

### **RECOMMENDATION**

Refuse permission.

### **PROPOSED DEVELOPMENT**

Pugham Farm is located just to the north of the M5 and mainline railway, on the road between Sampford Peverell and Westleigh. 'The Barn' is located to the north east of the access drive from the road to the main house. Planning permission was granted for the conversion of the barn to 1 unit of holiday accommodation in 2005. In granting planning permission, a condition was attached restricting occupation purely to holiday accommodation in line with the policy which prevailed at that time. This planning application seeks the removal of a previously imposed planning condition that restricted the occupation of 'The Barn' to holiday accommodation as follows:

The occupation of the building shall be restricted to bona fide holidaymakers for individual periods not exceeding 4 weeks in total in any consecutive period of 13 weeks (3 months). A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

The reason given for the imposition of the condition was: 'The site is in a rural area, outside of any defined settlement limit where it is the Policy of the Local Planning Authority to restrict the provision of new residential dwellings. However, holiday accommodation is considered to be an appropriate commercial reuse for a rural building and conforms with Development Plan Policy.'

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

Extract from Greenslade Taylor Hunt sales particulars  
Holiday Letting details  
Costings associated with holiday let

### **PLANNING HISTORY**

05/01218/FULL Conversion of barn to holiday let - HOLIDAY OCCUPANCY CONDITION APPLIES - PERMIT

11/01988/FULL Removal of Condition 3 of planning permission 05/01218/FULL to allow for the holiday let to be used as a permanent dwelling (APPEAL DISMISSED 7.2.13) - REFUSE

12/00448/CLU Certificate of Lawfulness for the existing use of an agricultural building as a dwelling for a period in excess of 4 years (APPEAL DISMISSED 7.2.13) - REFUSE

13/00992/FULL Conversion of redundant barn to 4 bedroom dwelling and garage - DELETE

15/01130/FULL Removal of Condition 3, holiday occupancy condition, of Planning Permission - REFUSED

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Core Strategy (Local Plan 1)**

COR1 - Sustainable Communities  
COR9 - Access  
COR12 - Development Focus  
COR18 - Countryside

## **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM2 - High quality design  
DM8 - Parking  
DM11 - Conversion of rural buildings  
DM21 - Protection of employment land  
DM24 - Tourism and leisure development

### **CONSULTATIONS**

HIGHWAY AUTHORITY - 4th November 2015  
Standing advice applies  
<http://www.devon.gov.uk/highways-standingadvice.pdf>

BURLESCOMBE PARISH COUNCIL - 3rd November 2015  
No objections.

### **REPRESENTATIONS**

None

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1) Planning history including previous appeal decision
- 2) Demand and viability of the building as holiday accommodation
- 3) S106 requirements

#### **Planning History including previous appeal decision**

The planning history is listed earlier in this report. The building was converted to a holiday let, which is a dwelling restricted by an occupancy condition, following permission granted in 2005. In 2011 a planning application was made to remove the occupancy condition, however at that time no attempts to let the building for holiday purposes had ever been made and the building had been occupied as someone's main home.

The main issue in the appeal was whether the holiday occupancy condition was reasonable and necessary having regard to local and national policy aimed at promoting more sustainable patterns of development. The appeal decision was issued after the introduction of the National Planning Policy Framework but prior to the adoption of Mid Devon's Local Plan Part 3 and its redundant rural building conversion policy. The Inspector stated in his appeal decision that the policy support in the NPPF and in the emerging (at that time) Local Plan Part 3 for the re-use of redundant barns did not apply to the application building as the building was not redundant and had already been converted. This situation has not materially changed since that time.

The Inspector made the following conclusion in dismissing the appeal:

"In this case I am not satisfied that I have been provided with sufficient evidence to enable me to conclude that condition 3 is not reasonable or necessary in the interests of sustainable development. Removing the condition without cogent evidence of lack of demand, viability or any marketing attempt whatsoever would undermine Policies COR1, COR12 and COR18 of the Mid-Devon Core Strategy (Local Plan part 1), which aim to promote sustainable patterns of development. In coming to this view I have had regard to the personal considerations put forward in support of the proposal, but these do not outweigh the more general planning considerations".

A similar application has previously been before the Planning Committee reference number 15/01130/Full on the 23rd September 2015 when members were minded to refuse.

In summary, policy COR1 relates to the development of sustainable communities, policy COR12 sets the focus of development in the district, concentrating it in the towns with a limited role for a number of identified villages. This site is outside any recognised settlement and so policy COR18 applies which sets out the types of development which are acceptable in principle in rural areas, with new unrestricted residential development only acceptable in very limited circumstances such as to provide affordable housing or housing essential to accommodate a rural worker.

The onus in this application is on the applicants to demonstrate that there is a lack of demand or viability for running the building as holiday accommodation.

## **2. Demand and viability of the building as holiday accommodation**

Since the previous appeal was dismissed in 2013 the applicants have begun letting the property for holiday accommodation. Dates submitted for the use of the building as a holiday unit commence according to the information submitted as the 11th July 2014. The property is advertised through a holiday cottage agency and on that agency's 'cottages 4 you' website. Interrogation of this website shows that the property was booked for most of November, 20 days in December, (2015) 22 days January, 7 days February, 14 days March, 7 days April, and 24 days in August along with other sporadic bookings in future months (2016). This shows a degree of interest presently equating to 74 days of 2016 already booked. The Mid Devon tourism study indicates that in the Mid Devon area the majority of bookings over the summer period are generally late bookings so the relatively low numbers of pre committed bookings do not necessarily justify the removal of a condition. There are no details on the site to show previous bookings, although there are a number of excellent reviews of the property from 2014 to date with an average score given of 8.6 out of 10. No information has been provided for the period from the appeal in February 2013 to 11th July 2014.

Some previous booking details have been provided by the applicant for 2014 7 days in July, 28 days in August, 3 days in October, and 12 days in December; there is no information concerning the interim months of September, November or the preceding months. Total days let 50 2015, 7 days in January 2014, 4 days in February, 4 days in March, 24 days in April, 7 days in May, 3 days in June, 27 days in August, 15 days in September, 9 days in October and 7 days in December. Total days let 107.

As the property has been shown to have been used for 2 years only as a holiday let it is considered that the evidence available to the Council from the letting agent's website and the applicant amounts to insufficient evidence provided to demonstrate that the letting of the property as a holiday unit is not viable in this location or providing an appropriate facility for the area.

According to the figures set out above the letting of the unit has increased by over 100% from that of the first year of records submitted. The general average for holiday occupancy across the country varies but on average it is indicated by tourism websites that occupancy rates should be around 20 weeks a year rising in more popular areas. This equates to 140 letting days per annum. Although the existing unit is presently reaching 107 letting days a year based on the information supplied, it is only its 2nd year of trading as a holiday let unit, based on the figures to hand. Therefore it cannot be established that the holiday unit is not viable, the holiday letting process has not had enough time to establish this.

The costs submitted relating to the running of the units is considered without corroboration to be on the relatively high side and not necessarily an appropriate cost for the number of visitors claimed. The costs submitted are not official invoices raised but hand written costs. The inclusion of gas, electricity costs would normally be covered as an inclusive cost and already budgeted as part of the letting rental. The other ongoing cost would appear to be reasonable, although a large majority of these are undertaken by the applicant according to their information received. If the property is not rented then there would be no requirement for some of the activities such as window cleaner, or cleaning personnel.

No attempt seems to have been made to consider selling the property as a going concern at an appropriate sale figure for a period of at least 18 months to be able to demonstrate that the business is unviable.

This element was highlighted by the inspector as part of the requirements needed to potentially justify the removal of the condition.

The Mid Devon Tourism Study dated November 2014 considers that the Local Planning Authority should support the development of sustainable rural tourism and leisure and this is reflected in policy DM24 of the Local Plan Part 3 which relates to tourism and leisure development. The study covers a wide range of tourist related activities and part of this includes data relating to bed spaces and the mix between hotels to campsites. Total tourism spend in Mid Devon is lower than other areas in Devon. The study concludes that this is probably due to the lack of larger tourism attractions in the District, along with above average proportion of visitors who stay with friends. The study identifies that nationally there has been a growth in short breaks and activity breaks. It is considered that the provision of this type of self-catering accommodation for tourism is growing while there is a decrease in B&B accommodation. As with all tourism activities the weather has an impact on numbers along with activities overseas. Predicted growth is anticipated to be in short and mid lengths stays / trips, primarily from people resident within the South West region. Future growth in visitor numbers is expected to arise principally from visitors who live 20 - 40 km from tourist attractions. The study also identifies that there is an opportunity to continue to develop tourism and leisure facilities and accommodation around the M5 North Devon Link Road corridors. The findings of the Tourism Study further indicate that there is demand for this type of tourist accommodation in the area and your officers consider that the evidence provided to date to counter that assertion is lacking.

Your officers consider that insufficient information has been supplied to demonstrate that the current enterprise is unviable or there is a lack of demand for holiday accommodation in the locality. The proposal is therefore considered to be contrary to policies Mid Devon Core Strategy (Local Plan Part 1) COR1, COR12 and COR18.

### **3. S106 requirements**

Should the application be approved, financial contributions towards public open space would be payable in line with this Authority's Supplementary Planning Document on the 'Provision and funding of open space through development' and policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document. At the time of writing this report, no request has as yet been made to the applicant for a contribution of £1442 (based on the number of habitable rooms) and if the proposal is to be approved then payment will need to be made prior to any approval being made.

### **REASON FOR REFUSAL**

1. The site is situated within the countryside, where Development Plan policy provides that residential development should be strictly controlled, and only provided for where consistent with the policies and proposals set out in the Plan. In this instance the building has been converted to a dwelling whose occupancy is restricted by condition to only allow for holiday lets; the building is not redundant and therefore the provisions of the National Planning Policy Framework and Policy DM11 of Local Plan Part 3 (Development Plan Policies) in relation to the conversion of redundant buildings do not apply. The Local Planning Authority is of the opinion that insufficient information has been supplied to demonstrate that the current enterprise is unviable or there is a lack of demand for holiday accommodation in the locality which would justify the removal of the holiday restriction condition. The use of 'The Barn' as a permanent residential dwelling would be contrary to Mid Devon Core Strategy (Local Plan Part 1) Policies COR1, COR12 and COR18.

Mrs Jenny Clifford  
Head of Planning and Regeneration

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**PLANNING COMMITTEE - 10 February 2016**

**REPORT OF HEAD OF PLANNING AND REGENERATION - APPLICATIONS DETERMINED UNDER DELEGATED POWERS**

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**PURPOSE OF REPORT**

To inform Members of those applications which have been determined under the officer delegation scheme since your last meeting. These decisions are made in accordance with the Authority's powers contained in the Town and Country Planning Act 1990 and have no financial implications.

**RECOMMENDATION**

That the report be noted.

**DETAILS OF DECISIONS**

<b>DATE RECEIVED</b>	<b>DATE DETERMINED/ DECISION</b>	<b>REF NUMBER</b>	<b>APPLICANT PROPOSED DEVELOPMENT</b>	<b>PARISH/AREA</b>
21.05.2015	07.01.2016 Permitted with Conditions to Discharge	15/00835/FULL	Mr R Clarke Land and Buildings at NGR 306975 109515 (Homeleigh) Croyle Erection of an agricultural workers dwelling	Kentisbeare 32
17.07.2015	18.01.2016 Grant permission	15/01153/ADVERT	Mr Will Garnett 37 St Peter Street Tiverton Advertisement consent to display 1 non-illuminated fascia sign and 5 other non-illuminated signs	Tiverton 52

22.07.2015	18.01.2016 Grant permission	15/01186/FULL	Mrs C Saunders Buttercup Meadow Cheriton Bishop Erection of replacement agricultural barn, retention of greenhouse, and removal of existing building	Cheriton Bishop 11
27.07.2015	07.01.2016 Permitted with Conditions to Discharge	15/01210/FULL	Mr W Weston Land and Buildings at NGR 296192 122436 (Kersdown Barton) Ford Road Conversion of existing agricultural building into dwelling	Bampton 01
27.07.2015	14.01.2016 Permitted with Conditions to Discharge	15/01216/FULL	Mrs R Salmon Land and Buildings at NGR 275624 95129 (Wolfgar Farm) Cheriton Bishop Conversion of redundant agricultural buildings into 3 dwellings	Cheriton Bishop 11
27.07.2015	14.01.2016 Permitted with Conditions to Discharge	15/01217/LBC	Mrs R Salmon Land and Buildings at NGR 275624 95129 (Wolfgar Farm) Cheriton Bishop Listed Building Consent for conversion of redundant agricultural buildings into 3 dwellings	Cheriton Bishop 11
02.09.2015	05.01.2016 Grant permission	15/01400/FULL	Mrs S Gardner Farthings Pennymoor Erection of garden shed	Cruwys Morchard 20
08.09.2015	13.01.2016 Grant permission	15/01440/LBC	Mrs C Golledge Beaufoy House Willand Old Village Listed Building Consent for the replacement of 2 windows	Willand 59

17.09.2015	22.01.2016 Grant permission	15/01459/FULL	Mr A Wilson Building at NGR294627 126390 (Combeland) Morebath Conversion and extension of outbuilding to form rural worker's dwelling	Morebath 36
24.09.2015	05.01.2016 Grant permission	15/01561/FULL	Davies and Dale Partnership Upcott Farm Nomansland Erection of an agricultural workers dwelling	Thelbridge 50
25.09.2015	07.01.2016 Refuse permission	15/01516/FULL	Mr R Chapple Thorverton Mill Thorverton Installation of a self service car wash/vacuum/tyre pressure facility	Thorverton 51
25.09.2015	11.01.2016 Permitted with Conditions to Discharge	15/01575/FULL	Mr C Labdon Land at NGR 307711 113502 (Lucas Farm) Uffculme Erection of an agricultural storage building	Uffculme 53
23.10.2015	13.01.2016 Grant permission	15/01719/FULL	Mr & Mrs N Lee Land at NGR 288433 102527 Uppincott Farm Erection of a polytunnel to house sheep	Shobrooke 44
26.10.2015	24.12.2015 Permitted with Conditions to Discharge	15/01725/FULL	Mr & Mrs D Blackaby Tinarber Lapford Erection of a dwelling and garage after removal of existing pre- fabricated dwelling	Lapford 33
29.10.2015	18.01.2016 Grant permission	15/01741/FULL	Mr N Carpenter 12 Shambles Drive Copplestone	Copplestone 62

			Change of use of live/work unit to C3 dwelling	
29.10.2015	24.12.2015 Permitted with Conditions to Discharge	15/01749/FULL	Mr P Scott Mellow Thatch Church Street Erection of a replacement outbuilding	Morchard Bishop 35
29.10.2015	06.01.2016 Grant permission	15/01750/FULL	Mr & Mrs R Harrison Old Chapel Clayhanger Erection of extensions	Clayhanger 14
29.10.2015	24.12.2015 Grant permission	15/01752/LBC	Mr P Scott Mellow Thatch Church Street Listed Building Consent for the erection of a replacement outbuilding	Morchard Bishop 35
30.10.2015	24.12.2015 Development Acceptance	15/01731/PNCOU	Mr M Baker Land and Building at Middle Rill Farm Shillingford Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Bampton 01
02.11.2015	12.01.2016 Grant permission	15/01762/FULL	Mr A Baker Aishe Barton Old Butterleigh Road Replacement of existing barn with new store and barn and installation of tennis court	Silverton 45
02.11.2015	05.01.2016 Grant permission	15/01770/FULL	Mr Ian Sorenson Stonelea 1 Park Cottages Replace existing flat roof to bay windows and porch with full width pitched roof leanto and erection of a replacement shed and a workshop/store	Burlescombe 06

03.11.2015	20.01.2016 Permitted with Conditions to Discharge	15/01779/FULL	Mr J Clist Holly House Willand Road Erection of 2 dwellings	Cullompton 21
03.11.2015	22.01.2016 Grant permission	15/01782/FULL	Mrs S Waddington Patrona Calverleigh Erection of two storey extension, utility room and decking to rear	Loxbeare 34
04.11.2015	13.01.2016 Grant permission	15/01781/CLU	Dr N Cuthbert Abbotshood Farm Halberton Certificate of lawfulness for the existing use of a dwelling in breach of agricultural occupancy condition (d) of planning permission 4/25/74/1168 for a period in excess of 10 years	Halberton 25
05.11.2015	24.12.2015 Withdrawn	15/01790/FULL	Mr A Turner Holiday Units Sticklands Removal of condition 5 of planning permission 04/00995/FULL relating to holiday occupancy to allow for full residential use	Sampford Peverell 42
05.11.2015	24.12.2015 Permitted with Conditions to Discharge	15/01796/OUT	Mr Paul Evans Dunns Cheriton Fitzpaine Outline for the erection of 1 dwelling following removal of existing detached garage with all matters reserved except for siting (Layout) of the dwelling	Cheriton Fitzpaine 12
05.11.2015	05.01.2016 Grant permission	15/01798/FULL	Mr Hugo Breitmeyer Rhode Farm Exeter Hill Erection of an agricultural stock shed	Halberton 25

06.11.2015	06.01.2016 Grant permission	15/01799/CLP	Mr & Mrs G Willis 2 Park Close Tiverton Certificate of Lawfulness for the proposed alteration of existing hip roof to gable	Tiverton 52
09.11.2015	13.01.2016 Grant permission	15/01804/CLP	Mrs Janet Skidmore 6 Fir Close Willand Certificate of lawfulness for the proposed formation of driveway	Willand 59
09.11.2015	13.01.2016 Grant permission	15/01806/FULL	Mr Alastair Peebles Manor Mill House Bampton Replacement of 3 windows with folding doors and insertion of roof glazing on rear lean to	Bampton 01
09.11.2015	13.01.2016 Grant permission	15/01807/LBC	Mr Alastair Peebles Manor Mill House Bampton Listed Building Consent for the replacement of 3 windows with folding doors and insertion of roof glazing on rear lean-to	Bampton 01
10.11.2015	04.01.2016 Grant permission	15/01810/FULL	Mr A Frost 10 Britton Close Halberton Two storey annexe attached to 10 Britton Close, Halberton	Halberton 25
10.11.2015	14.01.2016 Grant permission	15/01818/FULL	Mr & Mrs Victor & Janice Palmer Creedy Widger Upton Hellions Erection of conservatory	Upton Hellions 55
10.11.2015	18.01.2016 Grant permission	15/01820/FULL	Mr & Mrs R Staunton The Old Smithy Bampton Erection of a first floor extension and	Oakford 39

			porch	
11.11.2015	13.01.2016 Permitted with Conditions to Discharge	15/01805/FULL	Mr N Hill Workshop Lower North Coombe Erection of replacement garage workshop building (B2 use), and extension to parking area	Stockleigh Pomeroy 47
11.11.2015	05.01.2016 Approval of Prior Approval	15/01809/PNCOU	Mrs E Sime Land and Buildings at NGR 307391 107024 (Ashleigh) Broad Road Prior notification for the change of use of an agricultural building to dwelling under Class Q	Kentisbeare 32
11.11.2015	13.01.2016 Grant permission	15/01823/LBC	Mrs D Evans Village Pump High Street Listed Building Consent to carry out repair and renovation works and to erect plaque	Hemyock 26
12.11.2015	13.01.2016 Permitted with Conditions to Discharge	15/01814/FULL	Mr & Mrs T Tree Higher Beers Farm Brithem Bottom Erection of single storey extension to form enclosed swimming pool, following demolition of existing outbuilding	Halberton 25
12.11.2015	11.01.2016 Permitted with Conditions to Discharge	15/01835/FULL	Mrs J Poulton West Lodge Creedy Park Conversion of double garage to form annexe	Sandford 43
12.11.2015	20.01.2016 Permitted with Conditions to	15/01842/FULL	Mr & Mrs Adrian and Julia Miller Summerhayes/West Hayes Kennerleigh	Kennerleigh 31

	Discharge		Erection of 2 dwellings following demolition of of Westhayes and Summerhayes and associated works	
13.11.2015	07.01.2016 Refuse permission	15/01832/TPO	Mr P Souter 6 St Lawrence Close Tiverton Application for crown reduction by 3m and crown lift by 8m of 1 Oak tree protected by Tree Preservation Order 95/00009/TPO	Tiverton 52
13.11.2015	07.01.2016 Grant permission	15/01843/CLU	Mr L M Bateman Bateman Agriculture Five Bridges Certificate of lawfulness for the continued use of land and buildings for agricultural contracting and engineering with associated storage, distribution and retail. Such uses are considered to fall within the use classes A1, B1, B2 and B8 but are limited to the specific uses listed	Halberton 25
16.11.2015	11.01.2016 Approval of Prior Approval	15/01833/PNCOU	Mr & Mrs D Green Land and Building at NGR 300703 110258 Brithem Bottom Prior notification for the change of use of an agricultural building to a dwellinghouse under Class Q	Halberton 25
16.11.2015	12.01.2016 Refuse permission	15/01850/CLU	Mr P Guscott The Orchard Cheriton Bishop Certificate of Lawfulness for existing use of building as residential dwelling and associated use of land as residential garden for a period in excess of 10 years	Hittisleigh 27



16.11.2015	14.01.2016 Grant permission	15/01852/FULL	Mr D Allen 34 Castle Park Hemyock Erection of single storey extension	Hemyock 26
17.11.2015	11.01.2016 Grant permission	15/01836/LBC	Mrs J Poulton West Lodge Creedy Park Listed Building Consent for conversion of double garage to form annexe, and internal alterations to existing extension to form first floor accommodation	Sandford 43
17.11.2015	11.01.2016 Grant permission	15/01840/TPO	Mrs Nacey 2 The Acorns Uffculme Road Application for crown reduction by 2m of 1 Oak tree (T1) and removal of deadwood and reduction of upper crown by 1 metre radially of 1 Oak tree (T2) protected by Tree Preservation Order 02/00011/TPO	Uffculme 53
17.11.2015	12.01.2016 Grant permission	15/01857/FULL	Mrs Jane Keeley Barnsclose Post Hill Erection of an extension	Halberton 25
18.11.2015	11.01.2016 Grant permission	15/01858/FULL	Mr R Nursaw Land and Buildings at NGR 286999 106446 (Holes Farm) Cheriton Fitzpaine Erection of a mixed use agricultural building	Cheriton Fitzpaine 12
18.11.2015	20.01.2016 Grant permission	15/01864/FULL	Mr L McArdle Hartford House Lower Town Erection of single storey rear extension	Halberton 25

18.11.2015	12.01.2016 Grant permission	15/01865/FULL	Mr Loftus 1 High Street Halberton Erection of an annex to dwelling	Halberton 25
18.11.2015	07.01.2016 Grant permission	15/01866/FULL	Mr Nicholas Borst-Smith Waterhouse Barn Cheriton Fitzpaine Change of use of agricultural land to equine use and erection of a static field shelter	Cheriton Fitzpaine 12
20.11.2015	19.01.2016 Application Part Granted/Part Refused	15/01867/TPO	Mr A Epstein Graveyard St Thomas A Becketts Church Application to carry out works to 1 Beech tree and 3 Sycamore trees protected by Tree Preservation Order 05/00003/TPO	Lapford 33
23.11.2015	20.01.2016 Grant permission	15/01870/CLP	Mr A Davis Higher Living Farmhouse Down St Mary Certificate of lawfulness for the proposed widening of existing entrance	Down St Mary 23
23.11.2015	12.01.2016 Grant permission	15/01875/FULL	Mrs P Walters 3 Wright Drive Copplestone Erection of a conservatory	Copplestone 62
23.11.2015	13.01.2016 Grant permission	15/01877/FULL	Miss G Dumont 2 Ashley Road Uffculme Conversion of existing rear outbuilding and lean-to to form additional living accommodation	Uffculme 53
23.11.2015	18.01.2016 Withdrawn	15/01879/FULL	Mr Stewart Lawson Land at NGR 299987 102415(Adj)	Cullompton 21

			Quad World) Bradninch Change of Use of 1.865ha from leisure to Class B1 Light industrial and alterations to visibility splays	
23.11.2015	18.01.2016 Grant permission	15/01882/FULL	Mr A Still Sun Way 18A Crow Green Erection of ground floor extension to rear	Cullompton 21
23.11.2015	14.01.2016 Grant permission	15/01884/FULL	Mr G Grimshaw 7 Water Lane Tiverton Sub-division of dwelling into two dwellings (Revised Scheme)	Tiverton 52
25.11.2015	19.01.2016 Permitted with Conditions to Discharge	15/01899/ARM	Mr John Cooney, Stoneoak Developments Land at NGR 302666 114116 Adj Pullet Reserved matters for the erection of 3 dwellings following outline approval 12/01213/OUT	Sampford Peverell 42
26.11.2015	19.01.2016 Permitted with Conditions to Discharge	15/01900/FULL	Mr & Mrs M Hopkins Cob Barn Lower Town Conversion of redundant building to dwelling	Halberton 25
27.11.2015	14.01.2016 Grant permission	15/01892/FULL	Mr Gregory Craven Antioch Westleigh Variation of Condition 2 of Planning Permission 13/00327/FULL to allow alterations to windows, doors and exterior paint colour	Burlescombe 06
27.11.2015	06.01.2016 No Objection	15/01902/CAT	Mr Ian Hyde Bolham Primary School Bolham	Tiverton 52

			Notification of intention to carry out works to 9 trees (T1 - T9) within a Conservation Area	
27.11.2015	06.01.2016 No Objection	15/01903/CAT	Mr Paddy Faircloth 56 St Peter Street Tiverton Notification of intention to carry out works to 1 no. Magnolia tree, 1 no. Birch tree, 1 no. Ash tree and 1 no. Weeping Willow tree within a Conservation Area	Tiverton 52
30.11.2015	19.01.2016 Grant permission	15/01904/FULL	Mr C Kweller The Cottage Stretchdown Erection of two storey extension	Thelbridge 50
30.11.2015	20.01.2016 Grant permission	15/01905/FULL	Mr Nick Couzens Franklins Back Lane Erection of extension following removal of existing conservatory	Sandford 43
30.11.2015	24.12.2015 Development Acceptance	15/01913/PNAG	Mrs M Quicke Land at NGR 286762 98004 Five Elms Lane Prior Notification for the erection of an agricultural livestock building and ancillary building	Newton St Cyres 37
02.12.2015	11.01.2016 No Objection	15/01908/CAT	Mr P Smith Holly Croft South Street Notification of intention to fell one Leylandii within a Conservation Area	Holcombe Rogus 29
08.12.2015	04.01.2016 Development Acceptance	15/01944/PNAG	NP Webber & Son Land and Buildings at NGR 307827 108901 (Higher Pirzwell) Prior notification for the erection of	Kentisbeare 32

			roof to provide covered yard	
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Background Papers:            Contained in application files referred to.

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## Major Applications with no Decision

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 20th February 2013 that any ground mounted solar PV schemes recommended for approval will be brought to Planning Committee for determination.

<i>Item</i>								<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>	
1	0	26/04/2016	16/00101/MFUL	Change of use of land from agricultural to children's education adventure trail facility with all associated play structures and parking	Land at NGR 301873 104192 (Land Opposite The Merry Harriers Inn) Bradninch Devon	Miss Lucy Hodgson	DEL		
2	5	23/03/2016	15/01996/MFUL	Erection of parlour, cubicle and covered feed building (1876sqm)	Land at NGR 269824 104236 (SW of Lower Newton Farm) Zeal Monachorum Devon	Mr Delwyn Matthews	COMM	COMM	
Page 55	7	10/03/2016	15/01822/MFUL	Erection of 45 Extracare apartments and provision of associated communal facilities, car parking and landscaping, renovation of Alexandra Lodge following demolition of former stable block and extensions	Alexandra Lodge 5 Old Road Tiverton Devon EX16 4HQ	Miss Lucy Hodgson	COMM	COMM	
	11	02/03/2016	15/01808/MFUL	Erection of 3 replacement poultry buildings (7071 sq m) following demolition of existing, and provision of associated infrastructure including feed bins and hardstanding	Land and Buildings at NGR 285916 112901 Tollgate Farm Nomansland Devon	Miss Lucy Hodgson	COMM	COMM	
5	12	25/02/2016	15/01604/MFUL	Erection of 5 poultry units (5040 sq. m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure	Land at NGR 288027 116786 (Gibbett Moor Farm) Templeton Devon	Mr Kristian Evely	COMM	COMM	
6	19	11/12/2015	15/01332/MOUT	Outline application with access for an employment development of up to 5,256m2 of B1, 2,651m2 of B2 and 4,919m2 of B8 units together with internal access roads, parking and associated infrastructure	Land at NGR 303681 111677 (North Of Mid Devon Business Park) Muxbeare Lane Willand Devon	Ms Tina Maryan	DEL	DEL	
7	27	16/10/2015	15/01034/MFUL	Erection 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	Land at NGR 299621 112764 (Red Linhay) Crown Hill Halberton Devon	Mr Daniel Rance	COMM	COMM	

<i>Item</i> <i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
8	32	14/09/2015	15/00934/MARM	Reserved Matters for the erection of 100 dwellings, including garages, domestic outbuildings and structures, associated infrastructure, estate roads, footways, car parking courts, drainage, pumping station and landscaping, together with all other associated development, following Outline approval 13/00859/MOUT (Revised scheme)	Land and Buildings at NGR 302994 107178 (Former Cummings Nursery) Culm Lea Cullompton Devon	Mr Simon Trafford	COMM	COMM
9	77	04/11/2014	14/01332/MOUT	Outline for a mixed use development comprising of a primary school and pre-school with ancillary facilities including sports pitch and parking and turning area; erection of up to 25 dwellings with parking and open space	Land at NGR 288080 098230 East of Station Road Newton St Cyres Devon	Mr Simon Trafford	COMM	COMM
10	86	24/09/2014	14/00881/MOUT	Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road	Land East of Tiverton, South of A361, and Both North and South of Blundells Road Uplowman Road Tiverton Devon	Mr Simon Trafford	COMM	COMM
11	87	27/08/2014	14/00830/MOUT	Outline for the erection of up to 185 dwellings and 1935m2 of employment uses (B1 and B8) together with structural landscaping, sustainable drainage and ancillary open and play space	Land at NGR 284242 99827 (Wellparks) Exeter Road Crediton Devon	Mr Simon Trafford	COMM	COMM
12	91	28/07/2014	14/00604/MFUL	Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings (Revised Scheme)	Post Hill Nursing Home 36 Post Hill Tiverton Devon EX16 4ND	Miss Lucy Hodgson	COMM	COMM
13	145	16/07/2013	13/00525/MFUL	Application to replace extant planning permission 09/01870/MFUL (to extend time limit). A mixed development of 13 open market eco-houses and 6 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadowside Road (Revised Scheme)	Land at NGR 282973 102485 (East of Oxford Terrace) Fanny's Lane Sandford Devon	Mr Simon Trafford	COMM	COMM



# LIST OF APPEAL DECISIONS FROM 25 DECEMBER 2015 to 28 JANUARY 2016

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00898/TPO	Application to fell 1 Monterey Pine tree protected by Tree Preservation Order 08/00001/TPO	Beeches Dukes Orchard Bradninch Exeter EX5 4RA	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

## Summary of Inspectors Comments

- The tree contributes to the appearance and setting of the conservation area
- The relationship of the tree to the garden and dwellings of beeches is satisfactory
- There is no major evidence to suggest the tree is at risk of falling
- The tree has ceased growth height, however, will continue to grow in the crown
- The proposal would cause harm to the amenity of the local area and is unjustified.

14/02077/FULL	Erection of a dwelling with parking and associated access (Revised scheme)	11 Uplowman Road Tiverton Devon EX16 4LU	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Allow with Conditions
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## Summary of Inspectors Comments

The main issue is the effect of the proposal on the character and appearance of the surrounding area. The Inspector stated that the proposal would not appear unduly cramped compared with the character of surrounding properties. Although it would have a smaller plot size than is typical of nearby properties and reduce the plot size for No 11, this would neither be particularly apparent from the public realm nor result in unacceptably small plots for future occupants. The scale, design and set back from the road would be broadly consistent with the appearance of properties on Pomeroy Road and would not appear incongruous or detrimental to the street scene. Subject to conditions in respect of obscure glazing on the western elevation and landscaping, the proposal is not considered to harm the privacy and amenity of neighbouring occupants. Conditions are required in respect of the access, parking and turning areas however the Inspector did not consider it necessary to improve visibility along the frontage of No 11.

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PLANNING COMMITTEE  
10 February 2016

## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### **15/01422/FULL ERECTION OF FOUR DWELLINGS WITH GARAGES AND ALTERATIONS TO ACCESS (REVISED SCHEME) AT LAND AT NGR 302666 114116 (WEST OF PAULLET), TURNPIKE, SAMPFORD PEVERELL**

#### **Description of Development:**

This application is for the erection of four bungalows, including one affordable dwelling, with garages, associated parking (three spaces per dwelling) and alterations to the access. The site is located at Land at NGR 302666 114116 (West of Paullet), Turnpike, Sampford Peverell. The site is to be accessed from the cul-de-sac known as 'Paullet' where vehicular access has been retained between two dwellings.

This site is located within the settlement limit of Sampford Peverell. This application is a revised scheme following the withdrawal of an earlier application for four two storey dwellings. The site has outline consent for three bungalows, permitted under application reference number 12/01213/OUT in February 2013, there is a live reserved matters application for following the granting of this outline consent, reference number 15/01899/ARM. This reserved matters application was submitted.

The site comprises of agricultural land to the west of existing housing development. The north western corner of the site lies within the Sampford Peverell Conservation Area.

#### **REASON FOR REPORT:**

At the Planning Committee meeting on 16 December 2015, Members resolved that they were minded to refuse the application and deferred it for a further report setting out the implications of the suggested reasons for refusal.

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

Housing and Better Homes – The Corporate Plan sets out that there is a continued demand for the provision of sufficient decent housing for local residents, workers, and for those unable to afford market prices. There is a long term vision of ensuring housing needs of our residents are met through the provision of affordable home and good quality housing in both the public and private sector.

The Environment – The Corporate Plan highlights that the quality of Mid Devon's environment is matched by the richness of its cultural heritage, including Conservation Areas. With an increasing population the challenge is to meet the social and economic needs of the residents while maintaining the high quality of the natural and built environment and responding to the threat of climate change.

#### **Financial Implications:**

The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. The Council must be in a position to substantiate each its reason for refusal.

### **Legal Implications:**

None

### **Risk Assessment:**

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

### **REASONS FOR REFUSAL AND IMPLICATIONS:**

Members resolved that they were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out the implications for the proposed reasons for refusal based on the following issues:

- The impact of Plots 1 and 2 on the amenity of existing property due to overlooking issues
- The proposed access and the impact of additional vehicular movements upon highway safety as a result of the proposed 4 dwellings.
- The impact upon visual amenity of refuse arrangements arising from 4 dwellings
- Insufficient drainage arrangements

### **Suggested wording for reasons for refusal**

1. In the opinion of the Local Planning Authority, due to the proximity, orientation and significant difference in the ground levels between the site and the adjacent property number 9 Turnpike, plots 1 and 2 are considered to have an unacceptably adverse overbearing effect on the amenity of this neighbouring property, contrary to Policy DM2 of the Local Plan Part 3 (Development Management policies).
2. In the opinion of the Local Planning Authority, the proposed access arrangements do not result in the creation of a safe and accessible place, the proposal does not enhance road safety and the proposed access is considered to be unsatisfactory for users accessing the proposed site and the highway users of Pullett, contrary to Policy COR9 of the Mid Devon Core Strategy and Policy DM2 of the Local Plan Part 3 (Development Management policies).
3. In the opinion of the Local Planning Authority, the proposed scheme does not provide adequate bin collection and storage arrangements. There is no provision for designated bin storage areas within the curtilage of the dwellings, and the collection of bins from the public highway within Pullett is not satisfactory, in that it is at distance from the dwellings, will have a detrimental affect upon the amenities of the area and may cause impediment to the highway and access to the dwellings. Such impacts would be greater due to the number of dwellings and hence cumulative input of refuse bins as a result of this application.

The bin storage arrangements and collection not represent design that is of a high quality, demonstrating a clear understanding of the characteristics of the site and the surrounding area, and are considered to have a detrimental impact on the visual amenity of the area. The proposed bin storage arrangements will not support the creation of a visually attractive place that is well integrated with surrounding buildings

and streets, nor will the arrangements allow the development to positively contribute to the local character of Paultet. The bin storage arrangements are considered to be contrary to policies COR2 of the Mid Devon Core Strategy, DM2, DM4 and DM14 of the Local Plan Part 3 (Development Management policies).

4. In the opinion of the Local Planning Authority, the proposed drainage scheme does not adequately demonstrate that a sustainable drainage system is sufficient to effectively manage surface water drainage resulting from the proposed development, in order to ensure the development does not increase the flood risk of properties contrary to Policies COR11 of the Mid Devon Core Strategy and DM2 of the Local Plan Part 3 (Development Management policies)

### **Implications: reason for refusal 1**

Your officers identified in their report to Planning Committee on the 16 December 2015 that in assessing the amenity impacts on the existing properties they weighed up the separation distances between the properties, as well as the single storey nature of the proposed dwellings and the proposed fencing and landscaping arrangements.

Members were particularly concerned about the impact of Plot 1 and 2 on the dwelling at number 9 Turnpike, particularly due to the difference in ground levels and the orientation of the dwelling on Plot 1. At its closest; the dwelling at plot 1 is 10 metres from the application site boundary; the dwelling at Plot 2 is 7 metres from the site boundary at its closest point. Plots 1 and 2 are at their closest approximately 20 metres from the north western elevation of 9 Turnpike, measured from the closest wall of the dwellings on Plot 1 and 2. There are no windows on the north western elevation of 9 Turnpike and so there can be no potential for window to window overlooking between the properties. Members may wish to refer back to the site sections drawing number 2206-PL-03 for additional guidance on the site level differences between Plot 1 and number 9 Turnpike.

Due to the positioning of number 9 Turnpike within its plot, the main garden area serving the dwelling is to the east and south of the property, with the property located to the north east of its plot, broadly bounding the application site. The positioning of number 9 Turnpike limits the possible overlooking of the private amenity space from within the site. There are three windows on the western elevation of number 9 Turnpike, these face the garden area of Plot 2, the dwelling on Plot 2 is located to the north west of number 9 Turnpike. Due to the sloping nature of the site to the south, number 9 Turnpike is set lower than the site, the overlooking and overbearing impact of the proposed dwellings and the proposed 1.8m timber close boarded fence boundary treatment must be considered. The ground level at the site boundary to the north of 9 Turnpike is approximately 3.5 metres below the ridge height of number 9 Turnpike. The ground level at the site boundary to the west of 9 Turnpike is approximately 4.5 metres below the ridge height of number 9 Turnpike. The top of the proposed fence boundary treatment would be approximately 1.7 metres lower than the ridge height of the northern boundary of 9 Turnpike and 2.7 metres lower than the ridge height of the western boundary of number 9 Turnpike. The ridge height of Plot 1 is approximately 2.67 metres higher than the ridge height of number 9 Turnpike. The ridge height of Plot 2 is approximately 1.5 metres higher than the ridge height of number 9 Turnpike. Members will need to consider whether the levels difference will result in an acceptable overbearing impact of the new development upon the occupiers of 9 Turnpike.

Your officers concluded that although there will be some impact on number 9 Turnpike, on balance when weighing up the separation distances set out above, and the considerations set out by your officers report to Planning Committee on the 16 December 2015, that this

impact would not be unacceptable and would be mitigated by the proposed fencing and landscaping, including any potential overlooking from garden areas.

Members need to consider whether the impact of Plots 1 and 2 on the dwelling at number 9 Turnpike will result in an unacceptable loss of privacy and be detrimental to the living conditions of the occupiers of number 9 Turnpike so as to render the proposed development unacceptable.

### **Implications: reason for refusal 2**

The Highway Authority has not objected to the application. The consultation response set out that the Highway Authority are happy to accept the proposed development served from a private drive from a cul-de-sac road where the speed of traffic is slow and the visibility splays from the existing access are in accordance with Manual for Streets and drawing 2206-PI-02.

The Highway Authority consider the access to be acceptable to serve four dwellings, subject to conditions concerning the surfacing and drainage of the access drive, and sufficient parking and turning space to serve the dwellings; such conditions were recommended in your officers report to Planning Committee on the 16 December 2015.

Your Officers report to Planning Committee on the 16 December 2015 set out to members that there is an existing outline consent for three dwellings on the site. Members were concerned about the cumulative impact of an additional dwelling and the resultant traffic movements. In considering the acceptability of otherwise of the access arrangements, Members need to consider the impact of a single additional dwelling only. It will need to demonstrate why the additional traffic associated with this one extra dwelling is unacceptable. This extra traffic is estimated to equate to approximately 7-8 additional traffic movements per day.

In addition, Members, will need to demonstrate that this additional traffic will result in a severe impact as the NPPF advises: 'Development should only be prevented or refused on transport grounds where the residential cumulative impacts of development are severe'.

Members should be mindful that there are no outstanding objections from any Statutory Consultees, and that the Highway Authority has raised no objections to the proposed access arrangements to serve the four proposed dwellings.

### **Implications: reason for refusal 3**

Your officers recognise that the proposed bin storage and collection arrangements are not ideal; the arrangements do not meet the recent Mid Devon Waste Storage Guidance, and the distance for carrying bins from the proposed dwellings to the highway is not in accordance with the Building Regulations 2010 Drainage and waste disposal H document, which states that storage areas for waste containers should be sited so that householders are not usually required to carry refuse a distance exceeding 30 metres.

It is proposed that all bins will be collected from the closest point on the public highway in Paultet. This would also be the case under the existing outline permission for 3 dwellings. Your officers report to Planning Committee on the 16 December 2015 set out that the Council's Waste and Transport Manager advised it is not possible to collect the bins from anywhere within the proposed site and that bins would be collected from the highway in Paultet. Your officers have considered the proposed arrangements and the site, and consider there is sufficient space within the dwelling curtilages for bins to be stored outside of collection time, and that despite the distance to the highway which is in excess of 30 metres, due to the relatively level and appropriately surfaced nature of the proposed site,

occupiers of the proposed dwellings will be reasonably able to take their bins to the public highway for collection. This arrangement has previously been accepted for 3 dwellings granted under 12/01213/OUT.

Members were concerned specifically with the visual amenity impacts of the bin collection arrangements. Members are advised that the arrangements for bin collection would be the same under the existing outline application; therefore Members need to carefully consider the impact of the one additional dwelling on the bin collection arrangements only. Your officers advise that if Members wish to refuse this application on this ground, that the reason for refusal should include the inadequacy of the bin collection arrangements as set out above, as well as the visual amenity impacts. Any such refusal will need to demonstrate why the impact of refuse arrangements for the one additional property under this permission is unacceptable compared with the same arrangement granted for 3 dwellings.

#### **Implications: reason for refusal 4**

The updates to your officers report to Planning Committee on the 16 December 2015 included details of the drainage proposals for the site. The additional information set out that soakaway testing has taken place in accordance with Building Regulations Part H, and the results of this testing was provided.

The applicants instructed Engineering Consultants to undertake the work, it has been stated by the Engineer that test results confirm that the underlying soils are suitable for soakaways. A preliminary drainage layout plan was submitted identifying the location of five proposed soakaways within the site; and the drainage strategy has been designed to deal with a 1 in 100 year event plus climate change (an additional 30% allowance). The Plan proposes the use of cellular storage soakaways to dispose of runoff generated by the site. Your officers consider that it has been demonstrated that surface water may be discharged adequately to ground within the application site area.

Your officers report to Planning Committee on the 16 December 2015 recommended a condition requiring further specific details of the sustainable urban drainage scheme, including details of its management and maintenance, requiring its permanent retention and ensuring it is provided prior to the occupation of any of the dwellings.

Members are advised to consider the information submitted and whether the recommended condition on your Officers report to Planning Committee on the 16 December 2015 is adequate to ensure sufficient and satisfactory drainage arrangements. An application should not be refused if the issue of concern can be adequately dealt with by condition.

#### **SUMMARY**

Officers have suggested wording of reasons for refusal in connection with areas of concern justified by Members. Should members wish to refuse the application on reasons 2 or 3 clear justification will be needed on why traffic movements, access arrangements and refuse store/collection is unacceptable for 4 dwellings, but considered acceptable for 3 dwellings due to the granting of outline permission 12/01213/OUT with the same arrangements. There is no Highway Authority objection.

In respect of condition 4, Members would need to demonstrate the unacceptability and detrimental impact of proposed drainage arrangements and that it is not possible to mitigate these concerns by conditioning the provision of scheme details, management and maintenance arrangements.

Finally, Members expressed concern at the relationship of plots 1 and 2 with the existing dwelling 9 Turnpike. Details have been provided of the relationship between the properties in terms of height difference, distance of orientation. It is for Members to consider whether this is so detrimental upon the amenities of 9 Turnpike as to warrant refusal. Officers are of the view that there will be some detrimental impact upon this property, but that it is not so great as to justify a refusal. Members may draw a different conclusion.

<b>Contact for any more information</b>	Hannah Cameron 01884 234218
<b>Background Papers</b>	Supporting documents of 15/01422/FULL
<b>File Reference</b>	15/01422/FULL
<b>Circulation of the Report</b>	Cllrs Richard Chesterton



**Grid Ref:** 302666 : 114116

**Applicant:** Mr J Cooney

**Location:** Land at NGR 302666  
114116 (West of Paultet)  
Turnpike Sampford Peverell  
Devon

**Proposal:** Erection of 4 dwellings with  
garages and alterations to  
access (Revised Scheme)

**Date Valid:** 4th September 2015



**Application No. 15/01422/FULL**

**RECOMMENDATION**

Subject to the provision of a Section 106 Agreement to secure the provision of affordable housing (Plot 1) grant permission with conditions.

**CLLR MRS H BAINBRIDGE HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASONS:**

1. To consider the impact on the neighbouring properties.
2. To consider the highway impacts due to increased traffic movements as a result of the development.

**PROPOSED DEVELOPMENT**

Erection of 4 dwellings including one affordable dwelling with garages and alterations to access (Revised Scheme) Land at NGR 302666 114116 (West of Paultet), Turnpike, Sampford Peverell. The site is to be accessed from cul-de-sac known as 'Paultet' where vehicular access has been retained between two dwellings. This application seeks full planning permission. Outline planning permission has previously been granted for 3 bungalows on the site. All 4 properties now proposed are designed to be single storey.

**APPLICANT'S SUPPORTING INFORMATION**

Submitted application forms and plans  
Planning Statement  
Ecological Appraisal  
Agent's letter dated 19th November 2015

**PLANNING HISTORY**

12/00708/CAT Notification of intention to fell 3 Poplar trees within a Conservation Area - NOBJ  
12/01213/OUT Planning Outline for the erection of 3 bungalows - PERMIT  
15/01037/FULL Erection of 4 dwellings with garages and alterations to access - WDN

**DEVELOPMENT PLAN POLICIES**

**Mid Devon Core Strategy (Local Plan 1)**

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR3 - Meeting Housing Needs  
COR8 - Infrastructure Provision  
COR9 - Access  
COR12 - Development Focus  
COR17 - Villages

**Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)**

AL/DE/3 - Affordable Housing Site Target  
AL/IN/3 - Public Open Space

### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM8 - Parking

DM14 - Design of housing

DM15 - Dwelling sizes

DM27 - Development affecting heritage assets

### **CONSULTATIONS**

#### **SAMPFORD PEVERELL PARISH COUNCIL - 17th November 2015**

In arriving at our comments, we have also met with local residents.

We consider that this application is now so different from the original submission that it, in effect, constitutes a new application. We feel it is a pity it has not been treated as such because finding the latest details in the long list of documents on the website is very difficult.

However, we continue to object to the application. We have commented in considerable detail before and most of those detailed objections continue to apply. In particular, we feel that the site is more suitable to three dwellings, as allowed for in the outline planning permission already granted, than to four. We do not accept that the incursion into the conservation area is either necessary or insignificant. We do not believe that the arrangements for dealing with refuse and recycling are adequate or acceptable.

#### **HIGHWAY AUTHORITY - 9th September 2015**

Observations:

The Local Planning Authority will be aware of the highway Authority's comments and conditions for the previous application, which are equally applicable and should be imposed on this application. Therefore the Highway Authority has no further observations to make.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Highway Authority's comments on previous application 15/01037/FULL were as follows:

9th July 2015

The site has been subject to a number of pre application discussions and the Highway Authority are happy to accept the proposed development served from a private drive from a cul-de-sac road where the speed of traffic is slow and visibility splays from the existing access are in accordance with manual for streets and drawing 2206-PI-02 should be conditioned for parking turning and the turning head should be maintained free of obstruction and available to all dwellings at all times. The Highway Authority would recommend that the following conditions are also imposed.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

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

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

2. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway.

3. The garage/hardstanding and parking space required by this permission shall be provided in addition to and separate from the required turning space

REASON: To ensure that vehicles parked on the site are able to enter and leave in forward gear

**SAMPFORD PEVERELL PARISH COUNCIL - 28th September 2015**

We note that this application differs in some respects from the previous one (15/01037/full).

Nevertheless Sampford Peverell Parish Council continues to object to this application.

In arriving at this conclusion, we have conducted a site visit, heard views from neighbouring residents, and met in sub committee to discuss the proposed development.

We are still of the view that the application does not meet the requirements of DM2 of the Mid Devon Local Plan Part 3. It does not show a 'clear understanding of the characteristics of the site, its wider context and the surrounding area'. In particular, we consider that the proposal will 'have an unacceptably adverse effect on the privacy and amenity of - neighbouring properties - taking account of - siting, layout, scale and massing.' Two of the proposed properties are very large, considerably larger than dwellings in Paultet adjacent to the site, and none of the properties 'respect and complement the character of existing properties'. We believe that three low rise dwellings (as per outline planning permission already granted) is the absolute maximum that might meet those criteria.

As well as our general objection, we have some detailed points.

We are surprised that the Highway Authority, as quoted in the application, has said that access arrangements are likely to be satisfactory. Our site visit left us with considerable concerns about the safety of what is proposed. As previously noted, this development will probably have more than the average number of cars per dwelling. Traffic movements are therefore likely to be greater than suggested in the application. Any vehicle reversing into Paultet to allow another vehicle from the development to leave would cause a hazard to other motorists and pedestrians in Paultet. We note also that the junction between Higher Town and Blackdown View (into which Paultet feeds) already has problems with congestion, because of parked cars for example, and extra traffic is bound to exacerbate this.

The waste and recycling collection point is now at the development end of the access road. We wonder if the authority is prepared to collect waste and recycling that is so far from the main highway. The application states that residents' 'bins would be stored within the individual property curtilages' other than on collection days. However, as DM4 notes 'the long term behaviour of occupants with regard to waste management cannot be controlled by the planning system' and we believe that residents of the new development may well see the collection point as a permanent site for their bins. This could be very unpleasant for the owner of the property upon which the proposed collection point backs. We do not believe this arrangement to be sustainable as currently proposed.

DM7 covers the issue of pollution caused by any new development 'through noise, odour, light, air, water, land and other forms of pollution'. The area already has a problem with water run off at times of high rainfall. The water runs into neighbouring properties, especially that down the hill from the site, and onto the road in Turnpike. It seems to us inevitable that the introduction of a large amount of concrete and paving to the area will make matters worse by reducing natural water absorption. We note that plans have now changed to make use of the existing drainage system for both foul and surface water. We understand from residents that the system already has capacity problems. We would expect a proper assessment of the system's capability to cope with added volume before planning permission is considered.

DM27 deals with development affecting heritage assets. The residents of Sampford Peverell have always been clear about the need to protect our conservation area. The application rather dismisses the impact upon the conservation area of the proposed development as negligible. We disagree. We believe that to allow this sort of development to encroach upon the conservation area would set a very bad precedent.

The plans as submitted appear not to meet the full recommendations of the ecological report.

Finally, DM9 says that the 'Council will have regard to any up-to-date housing needs surveys'. Sampford Peverell Parish Council commissioned a housing needs survey, conducted for us by Devon Communities Together for The Devon Rural Housing Partnership, early this year. The report is still in draft, but shows the need for two types of housing in the village: affordable housing and smaller houses or bungalows to allow older residents to downsize. It is therefore very much to our regret that the initial application, to build three bungalows, was not pursued as that would more nearly meet local needs. No demand was shown for very large, very expensive dwellings.

As noted at the beginning, we continue to object to the application in its current form.

#### **ENVIRONMENTAL HEALTH - 21st September 2015**

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Waste & Sustainability

Drainage - no objections to this proposal

Noise & other nuisances - recommend approval with conditions:

No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties.

Housing Standards - no objections to this proposal

Licensing - N/A

Food Hygiene - Not applicable

Private Water Supplies - No comment

Health and Safety - No objections

#### **HIGHWAY AUTHORITY - 5th October 2015**

No comments.

#### **REPRESENTATIONS**

Fourteen objections have been received in relation to this application, they are summarised as follows:

- Pleasing to see the development has been scaled down to a sensible scale more in keeping with the local area
- Scheme 25% larger than originally permitted and the buildings have larger footprints, increasing the traffic and servicing needs from the previous permission.
- 3 low rise dwellings considered the maximum appropriate on the site.
- Narrow one way traffic site access, difficult for emergency vehicles to get through, and does not meet with Building Regulations for fire and emergency services. Access road falls below the 3.7m minimum width normally required for fire service vehicles. No consultation with the Fire and Rescue Authority. The junction with Paulett will be 5 way, limited visibility for vehicles reversing out of the site, vehicles will be blind to anyone exiting the driveway of 14 Paulett, concern over safety. Access unsafe for cyclists and pedestrians, no footpaths or cycle paths proposed
- Site plan misleading regarding separation distances between properties as rear conservatories of existing properties not correctly included
- Unnecessary and inappropriate use of Conservation Area land. Land area increased from the outline permission to include conservation area land, no public interest justification for the use of this land. The Conservation Area should be protected.
- Scheme does not understand the characteristics of the site, its wider context or the surrounding area contrary to policy.
- Concern about bats using the building to be demolished, bats frequently observed.
- Need for a sustainable urban drainage system rather than use of mains sewer which has capacity issues. Also current issues of surface water drainage from existing site into dwelling

- curtilages, development likely to worsen this
- Sewer capacity issues
- Ecology concerns, use of close board fencing will prohibit movement by small mammals
- Boundary fencing will cause overshadowing due to proposed site being significantly higher than the existing dwellings
- Lack of commitment to biodiversity concerns, no biodiverse planting in accordance with recommendations of ecology report. Need to condition recommendations of ecology report.
- Lack of consultation by developer with neighbours/locals
- Proposal doesn't meet housing needs within the parish
- Loss of light to existing properties and an unacceptably adverse impact on the privacy.
- No incorporation of sustainable features such as solar panels or heat pumps
- 12 parking spaces insufficient, overflow parking will be on street in Paulett and other local roads already under pressure.
- Additional vehicle movements will add pressure to blind junction at Blackdown View and the narrow road at Higher Town
- Need details on waste disposal and bin storage, concerns about collection from highway, proposal seems inadequate, 5 way junction inappropriate for refuse collection, further impairing visibility for road users. Long walk to entrance with bins inappropriate for residents of proposed bungalows unsuitable.
- The assembly of refuse and recycling items will compromise the attractive looks of a pleasant residential area. There might be 16-25 boxes or sacks left somewhere on the pavement, in addition to the waste that existing houses put out. They might block visibility splays
- Considerable disruption during construction period, need to condition and enforce a construction management plan
- Inappropriate application for the site, maximising return and burdening locals.
- Plots 3 and 4 are not offset from the existing properties at 14 and 15 Paulett with no viewing corridor, the ridge height of the proposed properties remains excessively high.
- The ground level of plot 3 should be reduced by 1 metre
- Issue with separation distances between properties
- Development will have an unacceptably adverse impact on the privacy and amenity of neighbouring properties contrary to policy, will overshadow and will be overbearing.
- Proposed dwellings much larger than surrounding dwellings
- The position of the Conservation Area land incorporated into the 2015 planning application is very difficult to identify from the applicant's planning statement.
- The footpath beside the access road will be approximately 0.6m wide. Is the developer required to ensure that any footpath provides safe access for the disabled even though it is to be unadopted?
- No visibility splays are shown on the applicant's plans and there is no effective indication of the vegetation, low walls, fences etc at each end of the access road. The visibility fails to meet the standards in Manual for Streets as shrubs block the view to the left and right.
- Cars reversing from the access road onto Paulett at a point where 3 driveways already meet at a road junction.
- DCC need passing bays on drives longer than 25m. The fact that DCC require such spaces makes me wonder why the proposed unadopted access (which is 32m long) can be allowed without such passing places. There is no space for them.
- The builder has given his street address as Turnpike so we can't understand why the entrance and exit is in Paulett

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main determining factors in this application are:**

- 1) **Policy;**
- 2) **Planning history;**
- 3) **Impact on neighbours and the living conditions of the occupiers of the proposed dwellings;**
- 4) **Impact on character and appearance of the area, including the setting of the Conservation Area;**
- 5) **Highway safety;**
- 6) **Ecology;**
- 7) **S106 contributions;**
- 8) **Local finance considerations; and**
- 9) **Other matters raised by interested parties.**

## 1) **Policy**

The National Planning Policy Framework (NPPF) states that full weight may be given to relevant policies adopted since 2004 (and in accordance with the Planning and Compulsory Purchase Act 2004) even if there is a limited degree of conflict with the NPPF. The policies described in the following paragraphs have all been adopted since 2004. Broadly speaking, in relation to this current proposal the Development Plan is in general compliance with the NPPF and so full weight is given to the relevant policies produced by Mid Devon District Council.

The site is located within the settlement limit of Sampford Peverell where policies COR1 and COR17 seek to encourage development in locations which are sustainable. COR17 lists Sampford Peverell as a settlement with sufficient facilities to be a village where small scale development will be permitted. Therefore the principle of residential development within the settlement limits, as in this case, is acceptable.

Other relevant policies include Policy DM14 (design of housing), DM15 (dwelling sizes) and DM8 (parking). DM14 looks for dwellings with suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage. Whilst DM15 seeks that a 3 bedroom property must exceed 57-67 sq. m., this is superseded by the more recently published 'Technical Housing Standards'. This seeks that a 3 bedroomed (6 person) 1 storey dwelling should exceed 95 sq m. The proposed dwellings exceed these minimum requirements.

The proposal must not adversely affect the safe functioning of the highway and provides appropriate parking facilities in line with policies COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and DM8.

All new dwellings are subject to the necessary infrastructure payments relating to Public Open Space as required by policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2).

This proposal is therefore in line with the general policies for small scale development in villages. Design and impact on the amenity of residents are covered separately below.

## 2) **Planning history;**

In February 2013, outline planning permission was granted for the erection of 3 bungalows on a smaller version of this site (a barn to the north of the site was not within the site area) under planning permission reference number 12/01213/OUT. The reserved matters must be submitted before February 2016. This outline permission is therefore still live in that it is capable of being implemented if reserved matters permission was granted.

Since that time, there has been no significant change in planning policy. Development Management Policies were submitted for Examination in 2013 and have since been adopted. Therefore, there is no significant change in the Development Plan between the grant of that permission and the current proposal.

### **3) Impact on neighbours and the living conditions of the occupiers of the proposed dwellings**

Amended plans submitted on 19th November revise the design of plots 1, 3 and 4. The revision to Plots 1 and 4 include primarily internal alterations and the scale and external appearance of these dwellings remain unchanged.

The revised design for Plot 3 addresses the Council's previously expressed concerns with regard to the design, the use of space within the property and the size of the rear garden. These concerns for the living conditions of the occupiers of the proposed dwellings have now been satisfied. Overall, the proposed development allows for adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows so that the living conditions of the proposed occupiers are sufficient.

Concern has been raised that the site plan does not include all details of conservatories that have been built on the rear elevations of a number of properties on Paultet. Whilst on site, the Planning Officer has noted the position of those additions in relation to the boundary of site.

Plot 1 is the closest building to existing dwellings. The gable of the proposed garage faces the rear elevation of No 13 Paultet. The gable of the garage is some 2.4m from the boundary. This gable has no windows in it and is some 2.3m to eaves and 4.5m to the ridge. This gable is 6.3m wide in an outlook width of some 8.5m from the rear of that property and is not considered to be an overbearing or intrusive feature within that outlook.

In addition, the only window of Plot 1 facing towards the rear No's 13 and 12 is the living room window which is some 15.6m from the boundary with those rear gardens. There is sufficient distance between this window and those on the rear elevations of those properties, together with sufficient boundary treatment to consider that Plot 1 does not have a detrimental impact on the privacy of the occupiers of those properties.

Plot 1 is approximately South West of the rear of No 13 and more westerly to No 12. Whilst this juxtaposition is likely to throw a shadow towards the properties on Paultet, due to the proposed height, finished floor levels, boundary treatment and distance involved, the shadow cast is unlikely to be significant or detrimental to the living conditions of the occupants of those properties to an unreasonable degree.

The relationships between Plots 3 and 4 and Nos.14 and 15 Paultet are more distant. The front façade of Plot 4 is some 20m from the boundary of the site. Whilst the garage of Plot 3 is more forward than its main façade, there is still sufficient distance between the proposed Plots 3 and 4 and the existing dwellings so as to not significantly affect privacy or other living conditions.

Some concern has been expressed that the boundary fencing will cause overshadowing due to proposed site being significantly higher than the existing dwellings. This has since been revised to address the concerns of the neighbours; the north eastern boundary between the site and Paultet will be hedgerow to an approximate height of 1.3 metres, the wooden fenced boundary treatment that exists at present will remain, the south east boundary of the site between Paultet and the rear gardens of Plots 1 and 2 will be new 1.8m close boarded timber fences. The boundary between the proposed properties will be 1.8m close boarded timber fences adjacent to the dwellinghouses for privacy, and will be hedgerow between the rear gardens. Notwithstanding what might be proposed as part of this application, a householder could erect a 2m high fence or wall in such locations without the benefit of planning permission. In any case, some of the fence is to the north of No 9 Turnpike and therefore would be unlikely to cast a shadow, whilst that to the west will cast a shadow at the end of the day.

Indeed, other concerns extended to the loss of light to existing properties. For the reasons outlined above, the proposed single storey dwellings in the format shown on the proposed plans are not considered do significantly affect outlook, light, sunlight, privacy or other living conditions of the occupiers of nearby properties.



Concern has been raised that the construction of the proposed development would could disruption to nearby residents. It is agreed that a condition should be imposed to provide details of the Construction Management, to include permissible working hours.

One representation notes that 'Plots 3 and 4 are not offset from the existing properties at 14 and 15 Paulett with no viewing corridor, the ridge height of the proposed properties remains excessively high.' Whilst it is within the remit of the LPA to ensure that proposed development does not have an adverse impact on the outlook of properties, it is not within the remit to protect private views over other land. The LPA does not share objector's views that the ground levels are not sufficiently low and that the ridge height of these proposed dwellings are excessively high, the ridge height of the proposed dwelling on plot 3 is 3.2 metres lower than the ridge height of the existing adjacent dwelling number 14. The ridge height of plot 4 is 0.55 metres lower than the ridge height of the dwelling at number 15.

In drawing this conclusion, the LPA has carefully considered the cross-sections submitted with the application and the illustrative sketch submitted as part of the 2013 application indicating a ridge height of 6.3m above existing ground level (the proposed ridge heights for Plots 1, 3 and 4 is 5.2m and 4.9m for Plot 2).

Previously, it was considered that the movements associated with 3 dwellings would not have an adverse impact on the living conditions of the residents of Paulett. In this instance, the proposed plans indicate one additional dwelling on the site. The LPA have considered the additional movements associated with an additional dwelling and do not consider that they are significantly different over and above what already has the benefit of planning permission.

Therefore, the proposal is considered to be in accordance with the requirement of new housing set out in Policy DM2 and DM14.

#### **4) Impact on character and appearance of the area, including the setting of the Conservation Area**

Interested parties note that the proposed dwellings are much larger than surrounding dwellings. Whilst this might be the case in terms of footprint on the ground, in that they are single storey dwellings, the habitable floorspace provided is likely to be less than the floorspace provided in a number of extended nearby 2 storey dwellings. In any case, the locality exhibits a range of dwelling sizes and the proposed dwellings would not be at odds with this character.

In considering proposed development affecting a Conservation Area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to pay special attention to the desirability of preserving or enhancing the area's character or appearance. National policy guidance set out in the NPPF confirms the great weight in favour of the conservation of 'designated heritage assets', such as Conservation Areas.

A modest part of the north west corner of the site is within the Conservation Area and the remainder of the rest of the northern boundary is immediately adjacent to it. Paulett and the property to the south are not within the Conservation Area.

The particular significance of any heritage assets likely to be affected by a development proposal should be identified and assessed, including any contribution made by their setting. Any harm should require clear and convincing justification. The NPPF advises that the setting of a heritage asset can contribute to its significance. Opportunities should be sought for new development within Conservation Areas and within the setting of heritage assets that would enhance or better reveal the significance of the heritage asset. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

The character and appearance of the Sampford Peverell Conservation Area is well set out in the Council's Character Appraisal published in 2008. The site is within the Higher Town area of the village. Importantly, the Conservation Area Appraisal does not note the site as being a visually important space. It is not within the archaeologically sensitive area or historic core. There are no features of special importance on the site, nor are there any important short or long distance views

into or out of the Conservation Area across the site. There are no important unlisted buildings adjacent to the site.

The proposed site is seen primarily in the context of the more modern properties of Poullet and No 9 Turnpike, rather than the more traditional dwellings and features of Higher Town. The Conservation Area Appraisal does not consider this site to be of great importance in the character and appearance of the Conservation Area. The site does provide part of the rural setting to a small part of the westernmost part of the Conservation Area; however, it does not create a significant feature in this setting.

The Mid Devon District Council Conservation Officer has raised no objection to the proposal. To this end, it can reasonably be concluded that the proposed use of the site in the manner proposed does change the character and appearance of the small part of the site that is within the Conservation Area. However, this effect is considered to be less than substantial in NPPF terms. In weighing the impact of the proposed development, that judgment would rely on first weighing benefits of a particular proposal against harm, in accordance with the statutory duty and NPPF guidance. Where, as here, the overall level of harm has been rated as 'less than substantial', the guidance of paragraph 134 of the NPPF is that the harm should be weighed against the proposal's public benefits. In this instance, the public benefits would primarily comprise the provision of good quality new housing, including one affordable dwelling, some public benefit through the investment in new construction and the employment it would provide, together with the New Homes Bonus.

These benefits are modest. On the other hand, the proposal's adverse lasting impacts on the character and appearance of the Conservation Area are minimal. Therefore, in the light of the considerable importance and weight to be given to the desirability of preserving the character and appearance of Conservation Areas, the adverse impacts in this instance would not significantly and demonstrably outweigh the benefits of the proposal.

## **5) Highway Safety**

A number of concerns have been expressed by interested parties in regard to the length and width of the proposed access and its ultimate additional loading of the junction with Poullet and Blackdown View/Higher Town. However, as technical advisors to the Council, the Highway Authority has raised no concern with the detail of the application. Indeed, the site has been subject to a number of pre application discussions. The Highway Authority are happy to accept the proposed development served from a private drive from a cul-de-sac road where the speed of traffic is slow and visibility splays from the existing access are in accordance with Manual for Streets.

It is proposed to condition that the development is carried out in accordance with drawing 2206-PI-02 and that parking, turning and the turning head should be maintained free of obstruction and available to all dwellings at all times. Other conditions are to be included.

Interested parties are concerned that the proposed development does not accommodate sufficient parking of each dwelling and its visitors. Whilst the Council do not consider garage spaces to be dedicated parking spaces, there are 3 parking spaces proposed for each dwelling in addition to a double sized garage. This surpasses the requirement of Policy DM8, which seeks a minimum of 1.7 spaces per dwelling.

In addition, concern has been raised that the width of the proposed access is not sufficient for fire-fighting facilities. It is understood that a minimum width of access road for a pumping appliance is 3.7m, matching the width of the proposed access.

In the absence of any support from the Highways Authority to refuse the application on highway safety grounds, the proposed development accords with the requirements of Policy COR9.

## **6) Ecology**

The majority of the site is semi-improved grassland. The field has been historically subject to management resulting in it being dominated by cultivated grass species and thus has low ecological appeal. However, the site is considered to be a suitable habitat for commoner species of reptile,

particularly slow worm, as well as supporting nesting birds.

However, interested parties raise concern about bats using the building to be demolished. This building has been assessed by an ecologist who has noted that it is not considered to be suitable for roosting bats. Whilst bats may have been observed on the site by interested parties, the site is not optimal bat foraging habitat. It is the well-established hedgerow network that links into the wider environment that is likely to have resulted in the presence of a number of species of bat frequenting the site and its close environs.

In response to concerns raised by interested parties and the recommendations of the report, the applicant has removed the proposed fence along the boundary with Paultet, the fencing to the rear of the site bounding agricultural land will remain as existing with a 1.5 metre post and rail fence, in addition the boundary treatment between the rear gardens of the dwellings is not proposed to be hedgerow, with 1.8 timber close boarded fencing only between the dwellings so as to allow for the free movement of terrestrial moving species. The amended plans show a species rich hedgerow, to consist of: 25% Hazel, 25% Field Maple, 20% Holly, 10% Guelder Rose and 10% Broom. The new trees and hedgerows will provide compensatory bird nesting habitat.

The independent ecological appraisal submitted with the application recommends a number of ecological mitigation measures. This includes that prior to the commencement of works a reptile mitigation strategy shall be implemented as part of the site clearance works, the population size will need to be assessed by a pre-commencement reptile survey to guide the appropriate mitigation works. It is proposed to impose an appropriate condition to seek the implementation of all of these ecological recommendations, and will be dealt with in this manner due to there being an existing outline approval capable of implementation that does not stipulate an ecological mitigation or survey requirements. All works must be undertaken in accordance with the relevant legislation (Wildlife and Countryside Act 1981 and the amended Conservation of Habitats Species Regulations 2010).

#### **7) S106 contributions**

Affordable housing has been sought in line with Policy AL/DE/3, which sets out that for rural sites of four dwellings the affordable target is one dwelling. The applicant proposes to provide one affordable dwelling on site (Plot 1), to be sold to a registered social landlord or appropriate managing organisation, subject to the finalisation and signing of a S106 agreement.

Policy AL/IN/3 of the AIDPD concerns requirements for the provision of public open space and play areas that apply to all new residential development. The supplementary planning document entitled "The Provision and funding of Open Space through Development" sets out the level of contribution required to meet this increased demand on public services. The applicant has met this financial obligation through the signing of a Unilateral Agreement under Section 106 Agreement. The provision of this contribution is deemed to be compliant with the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010.

#### **8) Local finance considerations**

With the introduction of the Localism Act 2011, the receipt of New Homes Bonus monies is a material consideration in the determination of planning applications. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 6 years. The amount of New Homes Bonus that would be generated from this proposal over a period of 6 years is therefore estimated to be £18,504. The receipt of these monies is a positive aspect of the proposal but the weight attributed to this consideration is no greater than the weight carried by the considerations previously discussed.

#### **9) Other matters raised by interested parties**

Interested parties raise concern with the drainage of the site, desiring the need for a sustainable urban drainage system rather than use of mains sewer which they believe has capacity issues. In addition, they are concerned that the current issues of surface water drainage from existing site into dwelling curtilages will worsen. In response, the applicant has instructed a drainage engineer to prepare a Surface Water Drainage Strategy, proposing a means to discharge surface water to ground

within the site using Sustainable Urban Drainage techniques, final details are awaited and will be agreed prior to any approval.

The applicant is criticised, by objections, for forwarding development that does not meet housing need. The Parish Council notes that the draft Housing Need report suggests that the Parish needs affordable housing and smaller houses or bungalows to allow older residents to downsize. They lament that the outline application to build three bungalows, was not pursued as that would more nearly meet local needs. However, those application forms indicate that those dwellings were likely to have been 4+ bedrooms. The application has been revised from 2x 3bedroomed and 2 x 4 bedroomed properties to 4 x 3 bedroomed properties. The Sampford Peverell Housing Needs Report from April 2015 identifies a need for 9 affordable homes within the next 5 years, with 44% of older residents that wish to move stating this was to downsize to smaller more manageable homes; in addition there is a recognised current need for a three bedroom affordable dwelling, which this scheme proposes to provide.

In accordance with advice from the Council's Waste and Transport Manager, residents of the proposed dwellings will take their bins and recycling boxes to the highway at Paullet for collection, it has been advised that it is not possible to collect the bins elsewhere on the site. As such, no dedicated bin storage area has been provided, as the bins will not be collected from such an area. There is sufficient space within the dwelling curtilages for bins to be stored outside of collection time. Although concerns have been raised about the appropriateness of bin collection from the highway, and the distance between the dwellings and the highway for bin movements, this would have been the case for the three dwellings granted permission under application 12/01213/OUT, this permission could still be implemented; the increase of one extra set of bins from the additional dwelling is not considered to be material.

## 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. No development shall begin until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following details:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) hours during which delivery and construction traffic will travel to and from the site;
  - (d) 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;
  - (e) hours during which no construction traffic will be present at the site;
  - (f) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
  - (g) details of wheel washing facilities and road sweeping obligations
  - (h) The proposed route of all construction traffic exceeding 7.5 tonnes.
  - (i) Details of the amount and location of construction worker parking.Works shall be carried out in accordance with the approved CMP.
4. The development hereby permitted shall not be commenced until there has been submitted to, and approved in writing by the Local Planning Authority, a landscaping scheme, including details of any changes proposed in existing ground levels. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development, (or phase thereof) in accordance with the

- approved details, and any trees or 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.
5. Prior to the commencement of any other part of the development hereby approved, the site access road shall be hardened, surfaced, drained and maintained thereafter for a distance of not less than 6.00 metres back from its junction with the public highway.
  6. No development shall begin until specific details of the sustainable urban drainage system proposed to serve the site, including details of the long term management and maintenance plans for the SUDS scheme, have been submitted to and approved in writing by the Local Planning Authority. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway. Once agreed, the development shall proceed in accordance with the approved scheme, which shall be fully operational before any of the proposed dwellings are first occupied, and shall be permanently retained and maintained in accordance with the approved details.
  7. Prior to their use on site, samples of the materials to be used for all the external surfaces of the building and retaining walls shall have been submitted to and approved in writing by the Local Planning Authority. Materials shall be in accordance with the approved details.
  8. No part of the development hereby approved shall be brought into its intended use until the access driveway, turning areas and parking spaces have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and shall be retained for that purpose at all times.
  9. The garage/hardstanding and parking spaces required by this permission shall be provided in addition to and separate from the required turning space, and shall be retained for such purposes at all times.
  10. The development shall be carried out in accordance with the recommendations set out in Section 4 of the 'Ecological Appraisal' prepared by Crossman Associates dated 26th August 2015 and received by the Local Planning Authority on the 4th of September 2015.
  11. No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Mondays to Fridays and 0730 to 1300 on Saturdays.
  12. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development of the types referred to in Classes A, B, C, D of Part 1 of Schedule 2 or Class A of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of the house (including the installation of new windows or doors or the replacement of existing windows and doors), alterations to the roof of the dwellinghouse, the erection or construction of a porch outside any external door, or the erection construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure on the dwelling or within the dwelling curtilage without the Local Planning Authority first granting planning permission.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM2 of Local Plan Part 3 (Development Management Policies).

4. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance Policy DM2 of Local Plan Part 3 (Development Management Policies).
5. To prevent mud and other debris being carried on to the public highway.
6. In the interest of public safety and to prevent damage to the highway.
7. To ensure that there are appropriate measures in place to deal with surface water drainage before construction begin in order to prevent increased risk of flooding in accordance with Policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of Local Plan Part 3 (Development Management Policies).
8. To ensure that adequate facilities are available for the traffic attracted to the site.
9. To ensure that vehicles parked on the site are able to enter and leave in forward gear.
10. To limit the impact of the development on any protected species which may be present.
11. To safeguard the amenity of the occupants of neighbouring properties in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
12. To safeguard the visual amenities and the character and appearance of the area and, the amenity of the occupiers of neighbouring properties and the ecological interests present at the site in accordance with Mid Devon Core Strategy (Local Plan 1) Policy COR2 and Local Plan Part 3: (Development Management Policies) Policies DM2 and DM27.

#### **INFORMATIVE NOTES**

1. The developer must ensure compliance with the requirements relating to protected species by virtue of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Any operations that would disturb bird nesting habitat should be undertaken outside the breeding season (March to August inclusive).
2. Foul drainage should be kept separate from clean surface and roof water and connected to the public sewerage system.

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

The proposal is acceptable. The site is within the defined settlement limit of Sampford Peverell where small scale development is permitted. It is considered that the proposed development will be at a density compatible with its surroundings and will provide a reasonable contribution to the housing stock of that settlement and the District. This proposal will reasonably complement the appearance of the street scene and be sympathetic in terms of the relationship with the adjoining buildings. The juxtaposition with existing nearby residential development is considered to be such that no significant impact in terms of harming privacy or other living conditions of those neighbouring properties. Adequate on-site parking and vehicle manoeuvring facilities with access thereto can be provided to serve this proposal. The benefit of the creation of dwellings is not overcome by the potential for less than significant harm identified to the character and appearance of the Conservation Area. Specific conditions are proposed to deal with the highway and movement issues. Other conditions are proposed to deal with specific design issues and to seek the implementation of the ecology recommendations suggested in the Ecological Appraisal. Therefore, in light of the above, there is no policy conflict and the impact of the proposed development is considered to be within acceptable ranges. There are no highway objections and a public open space contribution has been made. There are no other material considerations that would indicate that planning permission should not be granted in accordance with the development plan; the proposal is in accordance, therefore, with Policies COR1, COR2, COR3, COR8, COR9 and COR17 of the Mid Devon Core Strategy (Local Plan Part 1), Policies AL/DE/3 and AL/IN/3 of the Allocations and Infrastructure Development Plan

Document (Local Plan Part 2), together with Policies DM2, DM8, DM14, DM15 and DM27 of Local Plan Part 3 (Development Management Policies) and the Technical Housing Standards.

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PLANNING COMMITTEE  
10<sup>TH</sup> FEBRUARY 2016

## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### **15/01613/FULL - VARIATION OF CONDITION 1 OF PLANNING PERMISSION 12/01376/MFUL TO READ THE SOLAR PV FACILITY SHALL CEASE TO GENERATE ELECTRICITY IN OR BEFORE 30TH JUNE 2043 - LIGHTSOURCE S P V 52 LTD SOLAR FARM LAND AT NGR 296542 118012 (PALFREYS BARTON) COVE DEVON**

#### **Reason for Report:**

At the last planning committee (16<sup>th</sup> December 2015) Members resolved that the above application be deferred to allow for a briefing paper to be submitted, investigating case histories of such applications at appeal.

#### **PROPOSED DEVELOPMENT**

Both applications seek to extend the lifetime of the approved development by an additional five years.

This would permit the Ellicombe farm PV array originally granted in 2012 (12/01306/MFUL), to generate electricity until the 28<sup>th</sup> March 2043.

The Palfreys Barton PV array originally granted in 2012 (12/01376/MFUL, would be permitted to generate electricity until 30<sup>th</sup> June 1043 if consent is granted.

The Committee report **15/01612/FULL** presented on 16<sup>th</sup> December 2015 are attached as **Appendix 1**.

The Committee report **15/01613/FULL** presented on 16<sup>th</sup> December 2015 are attached as **Appendix 2**.

The Officer report **12/01306/MFUL** relating to the original grant of planning permission at Ellicombe Farm is attached as **Appendix 3**.

The Officer report **12/01376/MFUL** relating to the original grant of planning permission at Palfreys Barton is attached as **Appendix 4**.

#### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

Your officer has undertaken a detailed search for appeals relating to the extension of time period in solar PV schemes; however it has only been possible to identify one relevant appeal case study. The Planning Inspectorate's appeal reference is APP/D0840/W/15/3002662 and the decision date is 23<sup>rd</sup> June 2015.

The appeal related to a solar Photovoltaic facility on land forming part of an agricultural holding referred to Clann Farm in a largely rural area to the south west of the settlement of Bodmin in Cornwall. Planning permission was granted in 2012 for a facility comprising an array of some 6,144 panels covering an area of 4.14 Hectares. The installed capacity from the scheme was measured at approximately 1.41 MW. The development became operational on 4<sup>th</sup> November 2014.

An application to vary a planning condition to extend the length of time of operation was submitted to Cornwall Council in 2014. The permission originally granted was for 25 years and the application sought to extend this by 5 years to 30. The Council's principal concern in refusing the extension of time was in relation to an increased period during which a full and flexible access to the land for agriculture would be prevented. The application was refused by Cornwall Council on this basis and subsequently, the applicant submitted an appeal against the decision to the Planning Inspectorate.

The Inspector noted that the Council had raised no particular issues regarding landscape harm arising from the scheme, which the Inspector found to be exceptionally well contained, with only partial views available from alongside a nearby property and from a road joining onto the A30 junction.

The Inspector acknowledged that the Council had already granted planning permission for the use of the land and considered the assessment should relate solely to be the effect of the extension of time of the facility on the productive use of the agricultural land.

It was acknowledged that the National Planning Policy Framework (NPPF) seeks that the economic benefits of the best and most versatile land be taken into account. The Inspector noted that there was similar support in the Council's emerging Local Plan. The best and most versatile agricultural land is set out in the NPPF to be Grades 1, 2 and 3a.

The Inspector gave substantial weight towards the positive benefits gained from the electricity production over the additional time period and little weight was given to the Council's contention that the production during years 25 to 30 was unknown. The Inspector assumed that any failing panels would be replaced during the lifetime of the development and the array could continue to generate electricity across the additional time period.

It was also noted that there may be some reduction in electrical output, although this reduction would still be insufficient to warrant dismissal of the appeal. The Inspector also noted that permissions granting 30 year use by solar facilities are now not uncommon, and the appellant had provided some other examples, including one granted by Cornwall Council, also in 2015.

The Inspector concluded that an extension for 5 years would not compromise the agricultural productivity of the site, nor would it sufficiently alter the balance between harm and benefits to justify dismissal of the proposal to vary the condition. The Inspector granted a new planning permission without the disputed condition but substituted a new one, whilst retaining the relevant non-disputed conditions from the previous consent.

The research undertaken into the Inspectorate's approach demonstrates that the assessment of applications to extend the lifetime of generation in solar PV arrays should be limited solely to the additional period of time applied for. Therefore, where development has already been granted, the wider principle should not be subject for further scrutiny. The assessment is therefore limited solely to a balancing of the benefits against any additional level of harm arising within the extended time period.

Also in this appeal decision the Inspector noted that the granting of a 30 year use of solar PV array development is not uncommon, and it was also noted that there is evidence to support the assertion that PV arrays are capable of electricity generation beyond a 25 year period.

In the absence of any other relevant appeals, your Officer has undertaken further research into the decision making approach taken by other local planning authorities. This has confirmed an approach which is consistent with that taken by the Inspector in the above mentioned appeal. Delegated decisions from other authorities highlight that the key matter in determining whether an extension of time is acceptable or not should be related to the ability of each development to generate additional levels of renewable energy and whether this benefit would outweigh the impacts of the development over the extended timescale.

For reference, the Ellicombe Farm solar site (15/01612/FULL) is classified as a mix of Grade 3 and 5 agricultural land. The Palfreys Barton site (15/01613/FULL) is classified as predominantly Grade 3 with a small amount of Grade 5 agricultural land. When the approved time period ceases, the Palfreys Barton and Ellicombe Farm PV arrays (and all associated development) would be decommissioned and the land restored to its former use.

# APPENDIX 1

Application No. 15/01612/FULL

Agenda Item

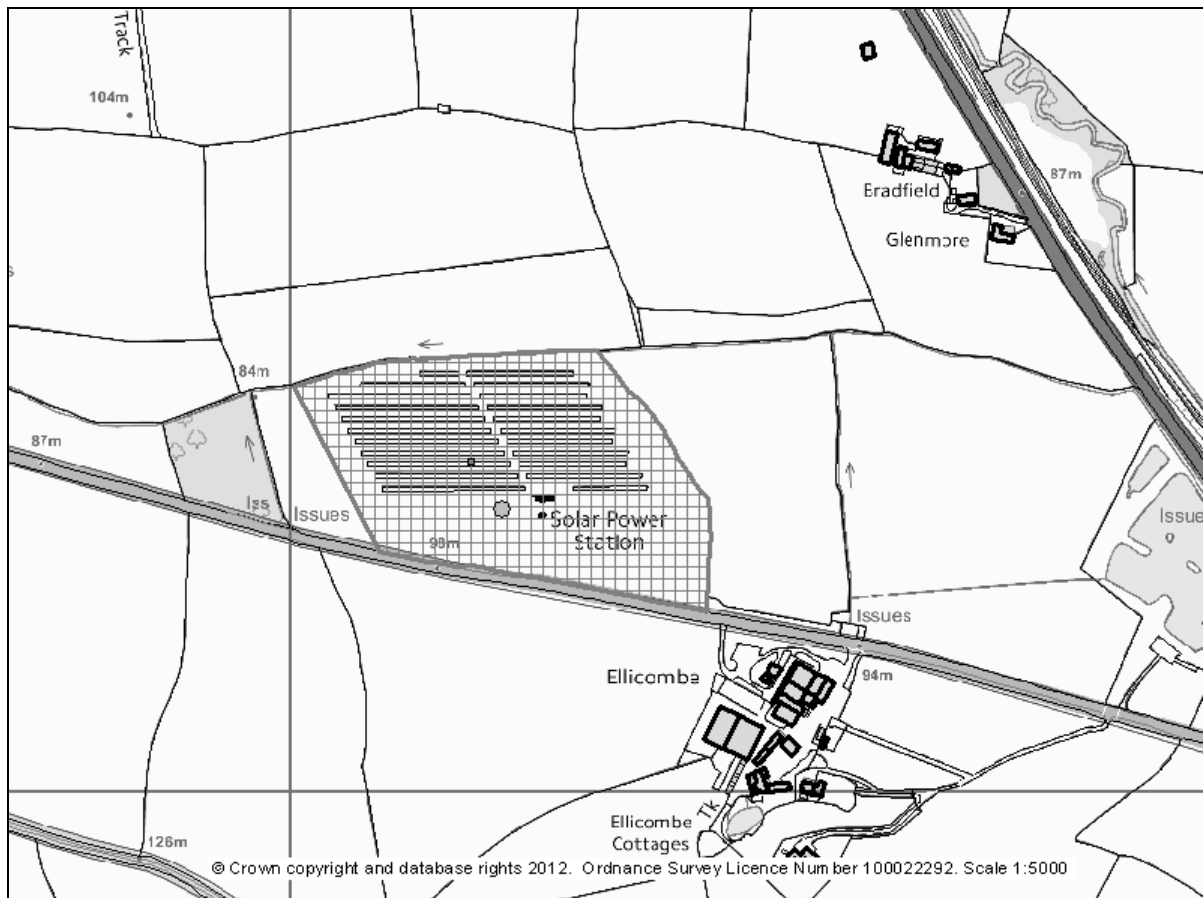
**Grid Ref:** 105292 : 274160

**Applicant:** GH & MG Barber

**Location:** Solar Farm at NGR 274160  
105292 Ellicombe Farm Morchard  
Road Devon

**Proposal:** Variation of condition (1) of  
planning permission  
12/01306/MFUL the solar pv  
facility shall cease to generate  
electricity on or before 28th March  
2043

**Date Valid:** 2nd October 2015



## AGENDA ITEM

### PLANNING COMMITTEE 16<sup>th</sup> December 2015

**Application No. 15/01612/FULL: Variation of condition (1) of planning permission 12/01306/MFUL the solar pv facility shall cease to generate electricity on or before 28th March 2043**

#### RECOMMENDATION

Grant permission subject to conditions.

#### PROPOSED DEVELOPMENT

This application relates to the existing Solar development at at Ellicombe Farm adjacent to the B3220 (Down St Mary to Winkleigh). The site is a single field just down from the junction with A377.

The scheme which has been built out and is now operational, covers 5.81 hectares of a single field approximately 6.56 hectares in size. From an energy generation point of the view when the application was submitted it was estimated by the applicant that the application scheme would generate **1.43 megawatts of energy**. Planning permission was granted on 13th December 2012 for a scheme set out on the following plans, and subject to the following conditions.

As stated above it is the first line of condition 1 which this current application is seeking to alter in order to extend the lifespan of the planning permission for a further period until 28<sup>th</sup> March 2043.

1. **The solar PV facility shall cease to generate electricity on or before 25th December 2037.** The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub-station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities
  - h. highway condition surveys
  - i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice, and the advice in Ecological Appraisal undertaken by Avian Ecology.
3. No development shall start until a Method of Construction Statement, to include details of:
  - (a) traffic management, and in particular at the site access to the B3220
  - (b) programme of works

- (c) parking for vehicles of site personnel, operatives and visitors
  - (d) loading and unloading of plant and materials
  - (e) storage of plant and materials
  - (f) provision of boundary hoarding/security fencing behind any visibility splays shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.
4. The additional planting as shown on the Ellicombe Farm detailed planting Plan received on the 11th September 2012 , including all planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 3 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof) , die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
  5. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.
  6. Further details of the sedum roof and external finish to the two porta cabin buildings as shown approved drawings (66)602C2 and (66)603C3 shall be submitted to approved in writing by the local planning authority prior to the commencement of this part the approved scheme. Once provided the structures shall maintained in accordance with the approved details.
  7. All cables shall be placed underground, except at the point of connection to the electricity grid system.
  8. The swale infrastructure shown on drawing SKD/175 shall be provided within 12 months of the date of this approval or within 28 days of the completion of the development hereby approved. Following their implementation the swales shall be managed and maintained in an operational condition until the site has been de-commissioned.
  9. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Following the issuing of the approved scheme, the applicant sought to discharge the relevant conditions (3,6,9) – letter dated 28/01/2013.

Following completion of the build out of the development, the developer submitted a non- material amendment (NMA) application for consideration. The scope of the amendment sought was for a revised layout showing a reduced number of panels and generating 1.2MW. Confirmation that this was acceptable as a Non-Material Amendment was issued on 29th May 2015.

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Core Strategy (Local Plan Part 1)**

COR2 - Local Distinctiveness  
 COR5 - Climate Change  
 COR9 - Access  
 COR11 - Flooding  
 COR18 - Countryside

### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM - Presumption in favour of sustainable development

DM/5 - Renewable and low carbon energy  
DM27 - Development affecting heritage assets

## **CONSULTATIONS**

HIGHWAY AUTHORITY - 13th October 2015 No comments.

ENVIRONMENT AGENCY - 15th October 2015 - No comments

HISTORIC ENVIRONMENT SERVICE - 28th October 2015 - No comments.

NATURAL ENGLAND - 20th October 2015 - Natural England currently has no comment to make on the variation of condition 1.

MORCHARD BISHOP PARISH COUNCIL - 3rd November 2015 - Support  
Down St Mary will receive some financial contribution from the solar array approved for Sharland Farm, Morchard Bishop, due to its visibility from DSM. It was felt that the same conditions should apply in reverse to the extension of the life of the array at Ellicombe Farm.

Officer response: The scope of any Community benefits arising are not a planning issue.

## **REPRESENTATIONS**

No representations received.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

This application is not seeking to change any aspect of the development as it has been built out, as stated above it is seeking to extend the lifetime of the development until 28th March 2043.

The application approved was determined on the basis of a policy framework including the Devon Structure Plan 2001 – 2016, Adopted Mid Devon Local Plan (LDF), Mid Devon Core Strategy (Local Plan 1) and Mid Devon Local Plan Part 3 (Development Management Policies: proposed submission). Whilst the DSP and MDLP are no longer part of the development plan framework, Local Plan1 and Local Plan 3 which is now adopted, remain in force. Therefore the policy basis and the relevant policy test against which to assess this current application is considered to be the same as the application submitted under LPA ref: 12/01306/MFUL.

Following the assessment of the scheme submitted under LPA ref: 12/01306/MFUL, permission was granted for the following reasons:

The proposed development, subject to the imposed conditions, is considered acceptable with regard to design and siting, its impact on the historic, visual and landscape character of the area, ecology and wildlife, highway safety, flooding and drainage, residential amenity of nearby properties and with regard to all other material considerations. The contribution of the scheme to renewable energy targets on land that is not considered to be the most versatile agricultural land is considered to outweigh any limited harm to the visual and landscape amenities of the area that may arise as a result of the development as proposed. Therefore, on balance it is considered that the development would accord Local Planning Policies CO1, CO6, CO8, CO10, CO12, CO13, CO14 and TR10 of Devon Structure Plan 2001-2016, Policies S5, S6, S11, E13, ENV3, ENV7, ENV16 of Mid Devon Local Plan (LDF), COR2, COR5, COR9, COR11 and COR18 of Mid Devon Core Strategy (Local Plan 1), Policies DM/1, DM/5, DM/28 Local Plan Part 3 and the National Planning Policy Framework.

As stated above, the scheme as built out is slightly reduced in terms of panel coverage and there are no policy objections to extending the life time of the scheme as it has built out until 28th March 2043. Furthermore it is not considered that an extension of the life of the development as it has been built out would compromise the acceptability of the development in terms reasoning as set out above.

The recommendation is therefore for approval subject to the following conditions.

## **CONDITIONS**

1. The solar PV facility shall cease to generate electricity on or before 28th March 2043. The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub-station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities
  - h. highway condition surveys
  - i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.
2. Any trees or plants planted as shown on the approved plans under LPA ref: 12/01306/MFUL which within the lifetime of the development hereby approved die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
3. The swale infrastructure shown on drawing SKD/175 and approved under LPA ref: 12/01306/MFUL shall be managed and maintained in an operational condition until the site has been de-commissioned.

## **REASONS FOR CONDITIONS**

1. To reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity, highway safety and protected species in accordance Policy COR2 and COR18 (local Plan 1) and policies DM2, DM5 and DM 27 (Local Plan 3) and Government guidance in the National Planning Policy Framework.
2. To safeguard the visual amenities of the area in accordance with Policy COR2 (Local Plan1) and policy DM2 (Local Plan 3).
3. To prevent an increase in flooding and to provide adequate means of surface water disposal in accordance with Policy COR9 of the Mid Devon Core Strategy (Local Plan)1 and the National Planning Policy Framework.

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

Subject to the conditions as recommended it is not considered that an extension of the lifetime of the development approved and built out under LPA ref: 12/01306/MFUL until 28th March 2043 will materially affect the impact of the development upon the historic, visual and landscape character of the area, any ecological and/or wildlife interest at or adjacent to the site, highway safety matters, flooding and drainage considerations and/or the residential amenity of nearby properties. On this basis the application scheme (to extend the life time of the development) remains in accordance with Policies COR2, COR5, COR9, COR11 and COR18 of Mid Devon Core Strategy (Local Plan 1) and Policies DM1, DM5, DM28 Local Plan Part 3 and the National Planning Policy Framework.

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

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# APPENDIX 2

**Application No.** 15/01613/FULL

**Agenda Item**

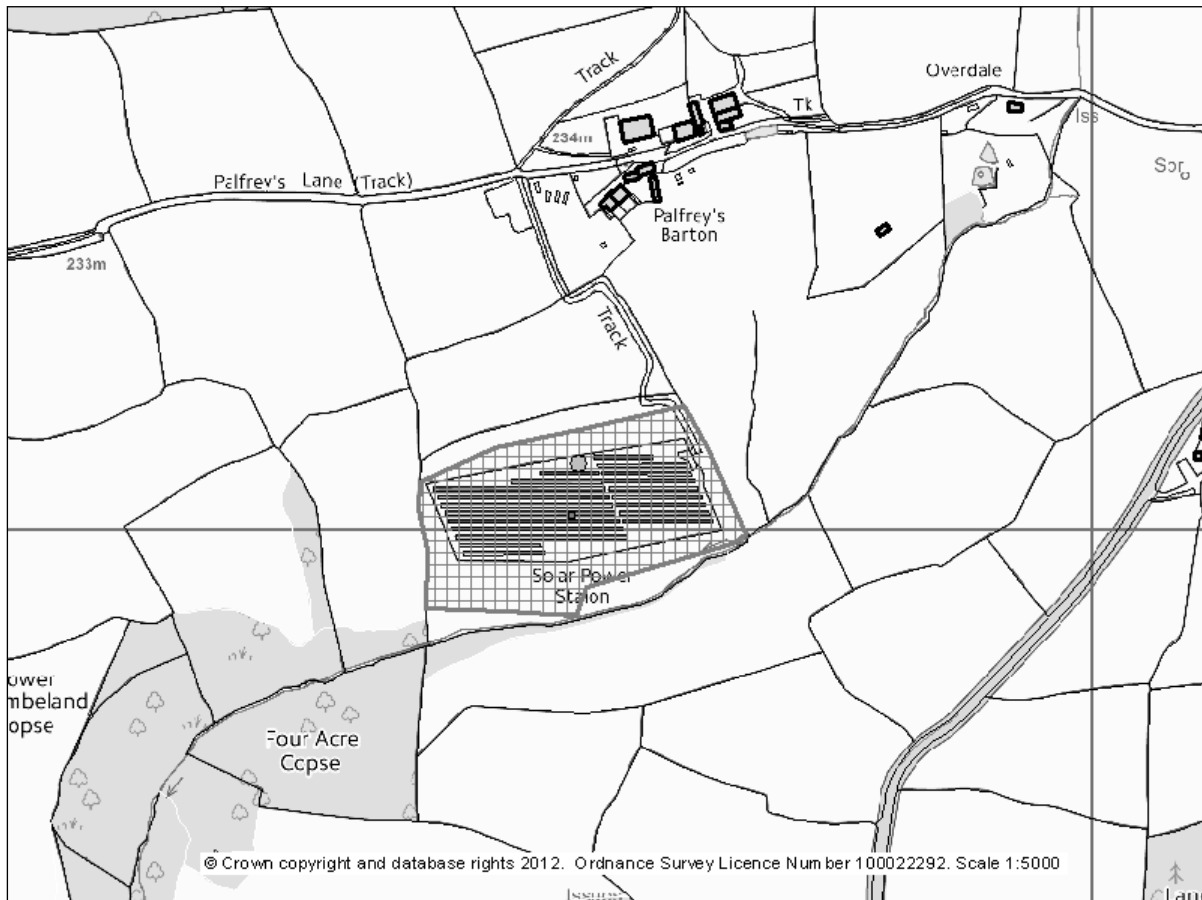
**Grid Ref:** 118012 : 296542

**Applicant:** Kalvells Limited

**Location:** Lightsource S P V 52 Ltd Solar Farm at NGR 296542 118012 (Palfreys Barton) Cove Devon

**Proposal:** Variation of Condition 1 of Planning Permission 12/01376/MFUL to read the solar PV facility shall cease to generate electricity in or before 30th June 2043

**Date Valid:** 2nd October 2015



**AGENDA ITEM**

**PLANNING COMMITTEE  
16<sup>th</sup> December 2015**

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

**15/01613/FULL - VARIATION OF CONDITION 1 OF PLANNING PERMISSION 12/01376/MFUL TO READ THE SOLAR PV FACILITY SHALL CEASE TO GENERATE ELECTRICITY IN OR BEFORE 30TH JUNE 2043 - LIGHTSOURCE S P V 52 LTD SOLAR FARM AT NGR 296542 118012 (PALFREYS BARTON) COVE DEVON**

**Application No. 15/01613/FULL**

**Variation of Condition 1 of Planning Permission 12/01376/MFUL to read the solar PV facility shall cease to generate electricity in or before 30th June 2043.**

**RECOMMENDATION**

Grant permission subject to conditions

**PROPOSED DEVELOPMENT**

This application relates to the existing solar development at Palfreys Barton Farm, Cove. The site is a single field approximately 1.5 km east of Cove and 2.8km to the south of Bampton.

The already approved scheme is operational and covers 3.55 hectares of a single agricultural field. When the application was submitted it was estimated that the scheme would generate 0.96 Megawatts of energy.

Planning permission was granted on 3<sup>rd</sup> of November 2012 for the following reason:

*Subject to conditions, the proposed development is considered acceptable with regard to its design and siting, visual and landscape impacts, archaeology and wildlife, highway safety, flooding and drainage and the residential amenities of nearby occupiers. The contribution of the scheme to renewable energy targets on land that is not considered to be the best and most versatile agricultural land, is considered to outweigh any limited harm that may arise as a result of the development, as conditioned. On balance, it is considered that the development would accord with Policies CO1, CO6, CO8, CO10, CO12, CO13 and TR10 of the Devon Structure Plan 2001-2016, Policies S5, S6, S11, ENV7 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework), Policies COR2, COR5, COR9, COR11 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM/1, DM/5 and DM/28 of the Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission and the National Planning Policy Framework.*

The originally approved application 12/01376/MFUL was determined on the basis of a policy framework including the Devon Structure Plan 2001 – 2016, the Adopted Mid Devon Local Plan (LDF), Core Strategy 2007 (Local Plan 1) and Local Plan Part 3 (Development Management Policies: proposed submission). The Devon Structure Plan and Mid Devon Local Plan are no longer part of the development plan framework, although the Core Strategy 2007 and the Local Plan Part 3 (Development Management Policies) remain in force (The LP3 was adopted in October 2013). There has therefore been a change in part of the policy basis upon which the original application was approved. However since it was considered acceptable against the still adopted Core Strategy (Local Plan Part 1) and development management policy (Local Plan Part 3), this policy change is not considered

significant, nor to lead to a different recommendation for the current application.

A Non-Material Amendment to the approved scheme was granted on 21<sup>st</sup> February for minor changes to the layout and orientation of panels, the position of access track, removal of a communications building and associated works. The amendments were granted on the basis that the works were deemed to be an improvement in terms of the visual character of the development with little overall impact upon the character of the area.

It is solely the first line of Condition 1 which the current application is seeking to alter in order to extend the lifespan of the permission to 30<sup>th</sup> June 2043.

1. **The solar PV facility shall cease to generate electricity on or before 30th June 2038.** The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub-station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities
  - h. highway condition surveys
  - i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.

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 supplemental planting to the boundary hedges detailed in the submitted Landscape Mitigation Section (paragraph 4.3) on pages 12, 13 and 14 of the Landscape and Visual Appraisal dated September 2012 and received by the Local Planning Authority on 24 September 2012 shall be carried out within 9 months of the substantial completion of the development and any trees or plants which, within a period of five years from the implementation of the scheme, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
4. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.
5. The galvanised steel cladding to the inverter/transformer housing and communications buildings shall meet in colour with either BS4800 12B25, BS4800 18B29 or BS4800

10B25. Once provided the structure shall be maintained in one of these approved colours.

6. The development hereby approved shall be carried out only in accordance with the recommendations contained in the Badger Survey dated November 2012 by URS (the Badger Survey). On the same day the security fence is erected, badger gates shall be installed in that security fence in the locations shown on drawing number 47062203/T2ECOL attached to the Badger Survey and to a specification shown on page 17 of the Badger Survey. Once installed, the badger gates shall be so retained whilst the security fence, or any replacement security fence, is retained on the site.
7. No external artificial lighting shall be installed at the site without planning permission first having been obtained.
8. All cables shall be placed underground, except at the point of connection to the electricity grid system.
9. The swales shown on the site and location plan and drawing number 2 both date stamped 26 November 2012, and further detailed in the Drainage Design report dated November 2012 prepared by URS shall be provided within 12 months of the date of this approval or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner. Following their provision, the swales shall be managed and maintained in an operational condition until the site has been decommissioned in accordance with condition 1 of this decision notice.

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

Supporting Letter – Non Technical Summary

Supporting Statement (s73 Variation of condition application)

#### **RELEVANT PLANNING HISTORY**

12/01376/MFUL Installation and operation of solar farm to generate 0.96 megawatts (site area 3.53 hectares), associated infrastructure, including PV panels, mounting, frames, inverters, transformers and fence - NON MATERIAL AMENDMENT GRANTED 21ST FEBRUARY 2013 - PERMIT

12/01376/MFUL/NMA Installation and operation of solar farm to generate 0.96 megawatts (site area 3.53 hectares), associated infrastructure, including PV panels, mounting, frames, inverters, transformers and fence - PERMIT

#### **DEVELOPMENT PLAN POLICIES**

##### **Mid Devon Core Strategy (Local Plan Part 1)**

COR2 - Local Distinctiveness

COR5 - Climate Change

COR9 - Access

COR11 - Flooding

COR18 - Countryside

##### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM1 - Presumption in favour of sustainable development

DM5 - Renewable and low carbon energy

DM27 - Development affecting heritage assets

## **CONSULTATIONS**

HIGHWAY AUTHORITY - 21<sup>st</sup> October 2015 - No comments

ENVIRONMENT AGENCY - 15<sup>th</sup> October 2015 - No comment

TIVERTON TOWN COUNCIL - 4<sup>th</sup> November 2016 - Support

HALBERTON PARISH COUNCIL - 13<sup>th</sup> November 2015 - No comments as the site is too far away

EXETER INTERNATIONAL AIRPORT - 13<sup>th</sup> October 2015

This additional information has been assessed from a safeguarding point of view and does not conflict with any safeguarding criteria or alter the initial response of 2012.

## **REPRESENTATIONS**

No representations received.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The application does not seek to change any aspect of the development from that already approved, other than to extend the lifetime of the development until 30<sup>th</sup> June 2043.

The applicant has submitted supporting evidence in the form of a Supporting Statement and a Non-Technical Summary, setting out the reasons why solar PV plants are now deemed to be capable of operation beyond the previously estimated 25 year period.

The main reasons include better maintenance practices for the PV modules with robust performance monitoring to prevent early degradation of the panels. Electrical transformers and switchgears are a necessary component of a PV array in delivering power to the grid and these components are continually improving in efficiency and longevity. The measures identified in the Non-Technical Summary will allow for extended electricity generation from the PV array at Palfreys Barton Farm. The Summary concludes that a 30 year operational life is both achievable and realistic.

The officer considers that there are no policy objections to extending the life time of the scheme as it has built out until 30<sup>th</sup> June 2043, and given that there are no other changes, it is not considered that an extension of the life of the development would compromise the acceptability of the development as a whole. The recommendation is therefore for approval subject to the following conditions.

## **CONDITIONS**

1. The solar PV facility shall cease to generate electricity on or before 30<sup>th</sup> June 2043. The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, substation, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities

- h. highway condition surveys
- i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.

- 2. In respect of the approved landscaping measures undertaken in accordance with application 12/01376/MFUL for any trees or plants which, within a period of two years from the date of this consent, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 3. The swales shown on the site and location plan and drawing number 2 both date stamped 26 November 2012, and further detailed in the Drainage Design report dated November 2012 prepared by URS under the approved application 12/01376/MFUL shall be managed and maintained in an operational condition until the site has been decommissioned in accordance with condition 1 of this decision notice.

## **REASONS FOR CONDITIONS**

- 1. To reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity, highway safety and protected species in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM1 and DM5 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
- 2. To ensure that the development is adequately screened and to protect the amenity of the surrounding rural landscape, in accordance with Policies CO6 and CO7 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5, S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.
- 3. To prevent an increase in flooding and to provide adequate means of surface water disposal, in accordance Policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and the National Planning Policy Framework.

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

The application is considered to provide valid reasons in support of the 5 year extension in the lifetime of the development, and subject to the amended conditions it is not considered that a further five years from the date approved under application 12/01376/MFUL will affect the historic, visual and landscape character of the area, any ecological or wildlife interests at or adjacent to the site, highway safety matters, flooding and drainage considerations or the residential amenity of nearby properties. On this basis the proposal is considered to remain in accordance with Policies COR2, COR5, COR9, COR11 and COR18 of Mid Devon Core Strategy (Local Plan 1) and Policies DM1, DM5, DM27 Local Plan Part 3 and the National Planning Policy Framework.

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

# APPENDIX 3

## Application No. 12/01306/MFUL

### RECOMMENDATION

Grant permission subject to conditions.

### PROPOSED DEVELOPMENT

The application proposes a Solar Farm on a single field at Elicombe Farm adjacent to the B3220 (Down St Mary to Winkleigh). The site is a single field just down from the junction with A377.

The scheme proposes that Installation and operation of solar farm to generate 1.43 megawatts, associated infrastructure, including PV panels, mounting, frames, inverters, transformers and fence. The site (5.81 ha) is part of a single field approximately 6.56 ha. The planning application scheme proposes a panel coverage of 32 % of the site area.

Access to the site is directly from the B3220 via a new access track leading down to the compound. Most of the plant associated with the use (transformer, switch board and switch gear) is to be located in a container. This container has a floor area of approx 6.1M b2.65 M, standing 2.89 M high and with two door entrances and a sedum roof. The container is shown with a grey external finish. A further container (identical dimensions) is proposed to accommodate an Inverter House. The cabins are shown on the site layout at the front of the site and to be set on a concrete base.

A security fence comprising of deer netting and timber posts standing at 1.8 metres in height. Additional planting to the existing hedgerow to the highway frontage is proposed (Southern boundary) and a swale is proposed along the northern perimeter of the development area.

The panels would be attached to mounting frames at an angle of between 25 degrees. The panels are fixed with no moving parts. The approximate standing height of the panels above ground on the high side is 2.8, and 0.1.0 metre for the low side. The supporting plans show that the mounting frames will be pile driven into the ground to a depth of approximately 1.0 metre.

### APPLICANT'S SUPPORTING INFORMATION

Site location plan, site layout – skd175 (including position of swale),  
Planting plan L0224\_04A .  
Topographical survey of the site – 11770-500-001  
Security fence system details – Drawing no:DEF  
Compound Details (66)602 C2 and (66)603C3  
Technical detail of proposed panels  
Flood Risk Assessment - PFA consulting, August 2012.  
Landscape & Visual Impact Assessment - Pegasus Environmental dated 7<sup>th</sup> August, including the planting plan 2012  
Archaeology & Cultural Heritage Assessment - by CgMs Consulting dated 12 July 2012  
Planning, Design & Access Statement - Lightsource dated August 2012  
Ecological Appraisal - by Avian Ecology dated 8<sup>th</sup> July 2012

### PLANNING HISTORY

None

### DEVELOPMENT PLAN POLICIES

#### Devon Structure Plan 2001 – 2016

CO1 - Landscape Character and Local Distinctiveness  
CO6 - Quality of New Development  
CO8 - Archaeology

CO10 - Protection of Nature Conservation Sites  
CO12 - Renewable Energy Developments  
CO13 - Protecting Water Resources/Flood Defence  
CO14 - Conserving Agricultural Land  
TR10 - Strategic Road Network

**Adopted Mid Devon Local Plan (LDF)**

S5 - General Development Requirements  
S6 - Design of New Development  
S11 - Surface Water Drainage  
ENV3 - Other Renewable Energy Sources  
ENV7 – Archaeological Investigation  
ENV16 - Protected Species  
E13 - Farm Diversification

**Mid Devon Core Strategy (Local Plan 1)**

COR2 - Local Distinctiveness  
COR5 - Climate Change  
COR9 - Access  
COR11 - Flooding  
COR18 - Countryside

**Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission**

DM/1 - Presumption in favour of sustainable development  
DM/5 - Renewable and low carbon energy  
DM28 – development affecting heritage Assets

**CONSULTATIONS**

ENVIRONMENT AGENCY - 8th November 2012 - ENVIRONMENT AGENCY POSITION.

We can confirm that the swales as shown on drawing L221/1 'Swale Locations and Typical Cross Section' would serve to manage runoff, and advise the drawing forms part of the approved plans. We also advise that condition, as requested in our letter dated the 3rd Oct 2012, be included within any subsequent decision notice should your authority grant permission.

HIGHWAY AUTHORITY - 19th September 2012 - Comments to follow  
11th October 2012

In highway terms the principle of the development proposal is acceptable. In detail, however I have a major cause for concern. The site takes its access direct from the B3220 Classified County Road. At this location the B3220 is subject only to the national speed limit. Observed traffic speeds are high. The site access has severely limited visibility from and of emerging vehicles, and meets the B3220 at an acute angle. The estimated construction traffic generation is not high and will be for a finite period, but given the severe lack of emerging visibility and the high traffic speeds on the B3220 it is considered essential that measures are provided to ensure that traffic can enter and leave the site safely. I therefore recommend that the applicant submits a Method of Construction Statement to include measures for traffic management at the site access. It is absolutely essential that no works are begun on site before the submission, and approval, of such a statement. I recommend the condition set out below is included in any grant of planning permission.

Recommendation:

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

1. No development shall start until a Method of Construction Statement, to include details of:
  - (a) traffic management, and in particular at the site access to the B3220
  - (b) programme of works
  - (c) parking for vehicles of site personnel, operatives and visitors



(d) loading and unloading of plant and materials  
(e) storage of plant and materials  
(f) provision of boundary hoarding/security fencing behind any visibility splays  
shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.

REASON: In the interests of highway safety and to ensure adequate facilities are available throughout the construction period.

ENVIRONMENT AGENCY - 25th September 2012  
Environment Agency Position.

We recommend that the application is not determined until an adequate surface water drainage strategy drawing has been produced.

We support the use of swales, however the FRA to date is a generic desk top exercise that fails to demonstrate how surface water runoff from this specific proposal will be managed so that flood risk downstream would not be exacerbated. We advise that more detail be provided prior to determination of the application. The applicant should produce a drawing showing where the swales will be positioned which forms part of the application. Swales should be 300mm deep with 1 in 4 side slopes. They should be built parallel to the site contours and include check dams at suitably designed intervals.

3rd October 2012 - Environment Agency Position.

Drawing SKD175 that shows the proposed position for a swale which we welcome. We request that the following condition be applied to the decision notice should you grant planning permission.

#### CONDITION

The development approved by this permission shall include swales on the downward slope of the plot to intercept any additional runoff. The swales shall be 300mm deep with 1 in 4 side slopes, be built parallel to site contours, (where practicable), and include check dams at suitably designed intervals such that waters are retained within the swale.

#### REASON

To prevent an increase in surface water runoff thus ensuring there is no increase in flood risk.

DOWN ST MARY PARISH COUNCIL - 6th December 2012 - Down St Mary Parish Council have held an open meeting to discuss this application. No residents attended to express any objections. The Parish Council agreed that they had no objection to the application subject to the approval of the other statutory bodies consulted. They hoped that the land would be available as agricultural land when the solar farm reached the end of its natural life or of the contract.

HIGHWAYS AGENCY - NETWORK PLANNING MANAGER - 21st September 2012 - No objection

DEVON & CORNWALL POLICE AUTHORITY - 20th September 2012 - I note the comments in relation to security fence and CCTV no actual details are given, although the design and access statement refers to there being no lighting, so I must assume that the CCTV cameras have Infra red lighting and are monitored or can be monitored if movement is detected, therefore have Pan tilt zoom facility? Could this please be confirmed.

The recommendation for solar farms are as follows:

#### Solar Farm Security

##### Risk

The South West of England has been identified as having the necessary solar power to make commercial Solar Farms a viable option. Farming energy from the sun using photovoltaic panels on a commercial scale is a new venture and will bring with it new risks and challenges to protect the location and panels from criminals. Because this is a new project there is no UK crime data to base crime prevention advice on.

Policing experience elsewhere indicates that placing large quantities of expensive photovoltaic panels in isolated locations without adequate protection will attract criminals and they will be stolen. The main risk will come from organised gangs who will use heavy duty tools and vehicles to remove large quantities of the panels. Once stolen the panels may be moved from the crime scene before re-emerging for sale.

##### Site

In view of the potential risk when considering suitable location for Solar Farms a major consideration from a police view will be how the site can be protected from unauthorised vehicle entry. Full consideration of the natural defences of location should be taken into consideration for e.g. steep gradient, Substantial hedging, Rivers etc. Where ever possible the boundary protection of the site should be an appropriate distance from the actual panels to discourage parking a vehicle against the boundary and manually lifting panels onto the vehicle.

##### Access to the Site

The solar company/site owner will require vehicular access to the site. The physical security guarding this access must be robust to sustain a high level of attack as these sites will probably be remote and lacking any natural surveillance. Consideration should be given to protecting the access road at two separate locations (1) At the actual entrance to the site and (2) set away from the specific entrance to keep authorised vehicles a substantial distance from the site.

The security of solar farms must be properly assessed by all those involved in the planning process. To be considered a truly sustainable resource within the National Grid, solar farms will need to be as secure as possible.

All planning applications should therefore include full details of the security proposals within the Design and Access Statement (as required by Department for Communities and Local Government Circular 1/2006 paragraph 87) Full details are not apparent on this application.

The security measures to be incorporated at each location will have to be considered on a site specific basis. They will obviously be determined to some degree by, for example, the existing landscape and local planning constraints etc

The basic principle of all crime prevention is to provide layers of defence to whatever is in need of protection.

In the case of Solar Farms this protection will almost certainly require both the physical element, such as fences or ditches and also the utilisation of appropriate technology such as CCTV and motion detectors.

The advice offered below covers the general crime prevention points which should be considered by any applicant.

##### Perimeter Security and Access Control

If perimeter fencing is to be used then it should be a proven security fence.

The recommendation would be to install fencing which has been tested and approved to current UK Government standards.

Fencing which meets the SEAP (Security Equipment Approval Panel) class 1-3 may be the most appropriate.

Fencing which is not of a specialist security type is likely to offer at best only token resistance to intruders. However if supplemented with movement detectors attached to the fence together with motion detectors/beams internally this could potentially be acceptable.

Planting up and alongside any fencing will be acceptable providing there is no detrimental effect upon site surveillance that is available or allow easy access over the fence by climbing trees etc..

The standard for rating bollards, blockers and gates is PAS 68:2007 and PAS 68:2010.

Landscaping techniques such as ditches and berms (bunds) may also be appropriate in some instances. To be effective in stopping vehicles these need to be designed carefully. Police are able to provide further specific advice in relation to the design of such defences upon request.

There should be a minimum number of vehicular access points onto site, ideally only one.

Clearly such access points will present the most obvious means for the criminal also and therefore will require a robust and adequate defence.

Some thought should also be given to the wider issues of access around any site. If for instance the land surrounding the site is under the same ownership can this be made more secure by improving gates etc. Again this provides layers of difficulty for the criminal to overcome.

#### Electronic Security

There is a huge range of electronic security available. For most sites it is very likely that this will play an important role.

In selecting which type of technology to employ a proper assessment on a site specific basis should be undertaken to ensure any system will be fit for purpose.

For CCTV this assessment is commonly called an Operational Requirement (OR)

An obvious example would be to establish how effective will the CCTV be at night at these locations, bearing in mind distance involved, quality of lens/equipment.

There will be little point in deploying CCTV or other defence unless it is monitored in some way or can provide an instant alert in some form and also who would then respond to this? Lighting is an issue, infra red or flood lighting?

CCTV which simply records will probably be of very limited value and basically not fit for purpose.

#### Other Options

The presence of site security personnel in some capacity should be considered including perhaps in terms of some types of response to site alarm activations

If the individual solar panels can be marked overtly this would reduce the ease with which they could be re sold/re used and thus help act as an additional deterrent.

Covert marking should also be considered.

Consultation with local police Beat managers following installation would be beneficial identifying points of access, routes to the site etc in the event of assistance being required.

I would appreciate sight of the operational requirement.

HISTORIC ENVIRONMENT SERVICE - 26th September 2012 - The proposed development lies in an area of archaeological potential, just to the north and adjacent to a putative Roman Road and in an area where prehistoric activity is known from findspots of flint tools as well as by settlement sites in the wider landscape identified through aerial photography. While the desk-based assessment undertaken of this site (CgMs report ref: WB/14211) recognises that the site may contain previously unrecorded archaeological remains associated with the known prehistoric activity in the vicinity it is not possible to know through desk-based research alone whether such remains are actually present, the quality of their survival or their significance. As such, without this information I do not regard the information submitted sufficient to enable a consideration of the impact of the proposed development upon the heritage asset.

Given the potential for survival and significance of below ground archaeological deposits associated with prehistoric activity in the vicinity and the absence of sufficient archaeological information, the Historic Environment Service 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 the Mid Devon Local Plan Policy ENV7, Devon Structure Plan Policy CO8 and paragraph 128 of the National Planning Policy Framework (2012).

The additional information required to be provided by the applicant would be the results of:

1. a geophysical survey of the area affected by the proposed development, and depending upon the results of the geophysical survey
2. a programme of archaeological evaluation to investigate any anomalies identified by the geophysical survey.

The results of this work would allow in informed and reasonable planning decision to be made.

I would recommend that the applicant or their agent contact this office to discuss the scope of works required and obtain contact details of professional archaeological consultants who would undertake these investigations. I would expect to provide the applicant with a Brief setting out the scope of the works required.

4th December 2012

I refer to the above application. Since my initial response made to you on the 25th September 2012, I have had confirmation from the applicant's archaeological consultant, CgMs, that there will be some degree of flexibility in the layout, number and foundation type of photovoltaic panels proposed for this site. This flexibility would allow any archaeological remains identified by geophysical survey to be preserved in situ by either avoiding siting of photovoltaic panels in that area or by the use of ground-mounted foundations rather than pile foundations.

In this light of this new information I would like to remove the Historic Environment Team's objection and advise, in accordance with paragraph 141 of the National Planning Policy Framework (2012) I would advise 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 applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure that an appropriate record is made of archaeological evidence that may be affected by the development'

I would envisage a suitable programme of work as taking the form of a geophysical survey of the area affected by the proposed development. The results of the survey would need to be presented in an appropriately detailed and illustrated report and would inform on the requirement for alteration of layout or foundation type for the photovoltaic arrays.

I will be happy to discuss this further with you, the applicant or their agent. We can provide the applicant with a Brief setting out the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

5th December 2012 - I refer to the above application. Since my initial response made to you on the 25th September 2012, I have had confirmation from the applicant's archaeological consultant, CgMs, that there will be some degree of flexibility in the layout, number and foundation type of photovoltaic panels proposed for this site. This flexibility would allow any archaeological remains identified by geophysical survey to be preserved in situ by either avoiding siting of photovoltaic panels in that area or by the use of ground-mounted foundations rather than pile foundations.

In this light of this new information I would like to remove the Historic Environment Team's objection and advise, in accordance with paragraph 141 of the National Planning Policy Framework (2012) I would advise 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 applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure that an appropriate record is made of archaeological evidence that may be affected by the development'

I would envisage a suitable programme of work as taking the form of a geophysical survey of the area affected by the proposed development. The results of the survey would need to be presented in an appropriately detailed and illustrated report and would inform on the requirement for alteration of layout or foundation type for the photovoltaic arrays.

I will be happy to discuss this further with you, the applicant or their agent. We can provide the applicant with a Brief setting out the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

NATURAL ENGLAND - 20th September 2012

Thank you for your consultation dated 14 September 2012 and received on 17 September 2012.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. It appears that Natural England has been consulted on this proposal to offer advice on the impact on a protected species.

Natural England's advice is as follows:

We have adopted national standing advice for protected species. As standing advice, it is a material consideration in the determination of the proposed development in this application in the same way as any individual response received from Natural England following consultation and should therefore be fully considered before a formal decision on the planning application is made.

Our standing advice sheets for individual species provide advice to planners on deciding if there is a 'reasonable likelihood' of these species being present. They also provide advice on survey and mitigation requirements.

We have not assessed the survey for badgers, barn owls and breeding birds<sup>1</sup>, water voles, widespread reptiles or white-clawed crayfish. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species.

How we used our standing advice to assess this survey and mitigation strategy

We used the flowchart on page 10 of our Standing Advice Species Sheet: Bats beginning at box (i). Working through the flowchart we reached Box (vi). Box (vi) advises the authority to accept the findings, consider promoting biodiversity enhancements for bats (eg new roosting opportunities, creation of habitat linkages or species rich feeding areas) in accordance with the NPPF and Section 40 of the NERC Act.

We used the flowchart on page 8 of our Standing Advice Species Sheet: Great crested newts

<sup>1</sup> Unless protected by Schedule 1 of the Wildlife & Countryside Act 1981 (as amended).

Please send consultations via email to: [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk)

beginning at box (i). Working through the flowchart we reached Box (iii). Box (iii) advises the authority to accept the findings and consider promoting biodiversity enhancements for great crested newts (for example creation of new water bodies and suitable terrestrial habitat) in accordance with in accordance with the NPPF and Section 40 of the NERC Act.

For future applications, or if further survey information is supplied, you should use our standing advice to decide if there is a 'reasonable likelihood' of protected species being present and whether survey and mitigation requirements have been met.

If you would like any advice or guidance on how to use our standing advice, or how we used the standing advice to reach a conclusion in this case, please contact us on the number above.

It is for the local planning authority to establish whether the proposed development is likely to offend against Article 12(1) of the Habitats Directive. If this is the case then the planning authority should consider whether the proposal would be likely to be granted a licence. Natural England is unable to provide advice on individual cases until licence applications are received since these applications generally involve a much greater level of detail than is provided in planning applications. We have however produced guidance on the high-level principles we apply when considering licence applications. It should also be noted that the advice given at this stage by Natural England is not a guarantee that we will be able to issue a licence, since this will depend on the specific detail of the scheme submitted to us as part of the licence application.

CAA - Solar PV - 21st September 2012

NATIONAL AIR TRAFFIC SERVICE - 17th September 2012 - No safeguarding objection.

LAPFORD PARISH COUNCIL - 9th October 2012 - No objections.

MORCHARD BISHOP PARISH COUNCIL - 2nd October 2012 - No comment.

COPPLESTONE PARISH COUNCIL - 4th October 2012

No objection.

## **REPRESENTATIONS**

At the time of writing 2 letters raising comments against the application have been received. One of the letters raises objections and the other in principle is supportive of the scheme but asks questions

about how the community will benefit, who will use the energy and who will receive the income (none of which are strictly planning matters – However it is noted that that the applicant has agreed to provide a community fund for the Parish of Down St Mary of £7,500).

In terms of the points raised in the letter of objection the site area is questioned in terms of how it relates to the proposed level of energy production. The issue of the visual impact from the roadside boundary is highlighted and the scope of additional landscaping is questioned in terms of how effective it would be. The height of the perimeter fence is questioned and it finally the writer claims that the impact assessment does not recognise that there are 4 separate properties on Ellicombe farm.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination this application are:**

- 1. Policy Issues**
- 2. Principal of the proposed use/development**
- 3. Landscape impact**
- 4. Visual Impact**
- 5. Impact on Biodiversity of the area**
- 6. Impact on Heritage Assets**
- 7. Highway safety and construction issues**
- 8. Other Issues**

### **1. Policy**

**RELEVANT NATIONAL PLANNING POLICY ON RENEWABLE ENERGY:**

The National Planning Policy Framework and the companion guide to PPS22 must be considered in the determination of these applications. These support the delivery of renewable energy and in particular advise that Local Planning Authorities should have a positive strategy to promote energy from renewable sources. In determining planning applications the Government requires that applications should be approved where the development's impacts are (or can be made) acceptable.

**RELEVANT REGIONAL PLANNING POLICY ON RENEWABLE ENERGY:**

Policy RE6 of the Regional Planning Guidance for the South West RPG10 on energy generation and use establishes the role of the South West region in supporting and encouraging the meeting of national targets for a 12.5 % reduction in greenhouse gas emission below 1990 levels by 2008 - 2012 and a 20% reduction (from 1990 levels) in carbon dioxide emissions by 2010 together with a minimum of 11-15% of electricity production from renewable energy sources by 2010. The policy encourages and promotes the greater use of renewable energy sources and indicates it is feasible for the region to seek an 11-15% target electricity production from renewable sources.

The draft Regional Spatial Strategy for the South West (RSS) regional target is a minimum of 509 - 611MWe installed capacity from a range of onshore renewable energy technologies by 2010 with a Devon target of 151 MWe from a range of onshore renewable electricity technologies.

The RSS also seeks to establish a 2020 regional minimum cumulative target of 850 MWE - but this is not broken down sub-regionally. Policy SD2 Climate Change sets out a target for regional reduction in greenhouse gas emissions. This is in line with national targets of 30% by 2026 (compared to 1990 levels) as part of longer term reduction by 2050.

The RSS also incorporates a 20% reduction in CO2 emissions by 2010 and a 60% reduction by 2050 and this equates to a 30% cut in CO2 emissions over the RSS period up to 2026.

The Government has made clear its intention to revoke these documents

**RELEVANT LOCAL PLANNING POLICY ON RENEWABLE ENERGY:**

Policy CO12 of the Devon Structure Plan 2001-2016 on renewable energy developments requires provision to be made for such proposals in the context of Devon's sub-regional target of 151MW of electricity production from land based renewable sources by 2010 subject to the consideration of their impact upon the qualities and special features of the landscape and upon the conditions of those living and working nearby. Due to timing, the proposal if granted would not be in a position to contribute to the 2010 target, but would contribute to longer term targets.

Policy COR5 of the Mid Devon Core Strategy on climate change is relevant to this scheme in that it seeks to deliver a contribution towards national and regional targets for the reduction of greenhouse gas emissions. Development of renewable energy capacity is supported where local impact is acceptable with particular reference to visual, nearby residents and wildlife.

#### OTHER RELEVANT PLANNING POLICY:

The National Planning Policy Framework includes a core planning principle relating to taking account of the different roles and character of different areas including recognising the intrinsic character and beauty of the countryside. It also refers to the planning system protecting and enhancing valued landscapes. In respect of highway safety, the NPPF requires safe and suitable access to the site. It goes on to state that planning permission should only be refused on transport grounds where the residual cumulative impacts of development are severe. Economic growth in rural areas is supported. This relates to all types of businesses and enterprise with a positive approach to sustainable new development.

Devon County Structure Plan 2001 - 2016 adopted 2004 :

Policy CO1 considers landscape character and local distinctiveness. It requires that the distinctive qualities and features of Devon's Landscape Character Zones should be maintained and enhanced and that policies and proposals should be informed by and be sympathetic to its landscape character and quality. Para 4.8 establishes that the maintenance and enhancement of Devon's landscape can only be effectively achieved if the distinctive qualities and characteristics can be conserved.

Policy CO6 requires that the identity, distinctive character and features of rural areas should be conserved and enhanced. In planning for new development the local planning authority should maintain and improve the quality of Devon's environment by requiring attention to good design and layout that respects the character of the site and its surroundings.

Policy CO10 requires consideration to be given to the impact of the development of wildlife and protected species and their habitats and the provision of appropriate mitigation where necessary.

Policy CO13 requires that all new development should be subject to an appropriate drainage assessment, and wherever possible appropriate sustainable drainage systems. Development should not be provided where it would lead to deterioration in water quality, quantity or natural flow, there are not existing adequate water resources, there would be a direct risk from flooding or it would be likely to increase the risk of flooding elsewhere to an unacceptable level. Additionally, the development should not be likely to have an adverse effect on nature conservation, landscape and recreation in river corridors, other water areas or any facet of the natural water environment.

Policy CO14 relates to the protection of best and most versatile agricultural land unless there is an overriding need for the development

Policy TR10 states that development proposals should not adversely affect the road network in terms of traffic and road safety, and access to the network should not detract from or conflict with the function of the route.

Mid Devon Local Plan (LDF):

Policy S5 sets out general development requirements as a series of criteria to be met. Of these the following two criteria are relevant to this application:

- iii) the operation of the site (including additional road traffic) will not be detrimental to the amenity, health or safety of nearby occupants or the wider environment through noise...;
- v) they are located without harm to the appearance or character of any affected landscape;

This also implies that proposals should maintain or enhance landscape appearance or character.

Policy S6 considers the design of new development and is also criteria based. This policy includes consideration of siting, scale and height. The criteria considered relevant to this application are:

i) respect and enhance the distinctive historic, landscape and settlement character of the locality, taking account of locally important features, vistas, panoramas, skylines, street patterns, buildings, groups of buildings, open spaces and their interrelationships;

xvi) minimise adverse impacts on the environment, and existing land uses likely to be affected.

Policy S11 relates to the need for Sustainable Urban Drainage Systems or other surface water management to ensure that surface water run-off from new development is equivalent in quantity, rate and quality to that expected from the undeveloped site.

Policy E13 encourages schemes which are considered to be farm diversification

Policy ENV16 seeks to prevent development which may have an adverse impact upon protected species and their habitats unless appropriate mitigation can be agreed

Mid Devon Core Strategy (Local Plan 1):

Policy COR2 on local distinctiveness states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through a series of requirement criterion. Those relevant are:

- a) high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places,
- b) the efficient use and conservation of natural resources of land, water and energy,
- c) the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within landscape character areas.
- d) protection of national and local biodiversity

The importance of conservation/preservation or enhancement of landscape character and appearance is therefore common to regional, county and local levels of planning policy.

Policy COR9 on access states that development and transport planning will be co-ordinated to improve accessibility for the whole community, reduce the need to travel by car and increase public transport use, cycling and walking.

Policy COR11 states that development will be guided to sustainable locations with the lowest risk of flood by applying the sequential test and locate appropriate development in areas of higher flood risk only where the benefits outweigh the risk of flooding; development should be managed to ensure that it does not increase the risk of flooding of properties elsewhere and should where possible, reduce the overall risk to life and property.

Policy COR18 considers development outside settlements and states that such proposals will be strictly controlled to those enhancing the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It goes on to state that detailed development control policies will permit agricultural and other appropriate rural uses, subject to appropriate criteria. Renewable energy proposals are in principle acceptable in rural locations under this policy.

Policy DM/1 of local plan 3 establishes the presumption in favour of sustainable development.

Policy DM/5 establishes the following assessment criteria:

The benefits of renewable and low carbon energy development will be weighed against its impact. Proposals for wind turbines, solar power installations and other forms of renewable or low carbon energy will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area, including cumulative impacts of similar developments within the parish



or adjoining parishes.

Development must consider:

- a) Landscape character and heritage assets;
- b) Environmental amenity of nearby properties in accordance with Policy DM/7;
- c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a);
- d) Biodiversity (avoiding habitat fragmentation).

Finally whilst only a draft document currently undergoing consultation Devon County Council, on behalf of the Devon Landscape Policy Group, have issued DLPG advice note no.2, which provides guidance on the Siting, Design and Assessment of Wind and Solar Developments in Devon.

## **2. Principal of The PV Array on agricultural land**

The proposal will reduce the scope of land that is available for farming on Ellicombe Farm by a single field which is 6.56 ha, although technically over half of the field would be untouched by the development. Whilst within the compound proposals would not be compatible with the continued use of the land for main stream agricultural practises the spacing between the panel will enable grass to grow. Finally planning permission is only sought for the scheme for a period of 25 years, and a condition is recommended to control the decommissioning stages of the development so that it could continue to be used for agricultural purposes post 2037.

The site is grade 3 agricultural land which slopes south to north, it is currently not used for cultivation and/or grasing purposes. The fact that it is not actively used for agricultural purposes may or may not reflect its grading, however as grade 3 land it is neither of excellent or good quality agricultural land which Policy C014 of the Devon County Structure and S9 of the Adopted Local Plan which seek to protect as those areas of greatest value for agricultural production. Policy E13 of the Mid Devon Local Plan promotes development which diversify the economic activities of farms including a broad range of uses, including, business, industrial, leisure and tourism uses outside settlement limits. Policy COR18 of the adopted Core Strategy promotes a range of acceptable uses in the open countryside, including renewable energy infrastructure.

Therefore in principal the application proposals, including the portacabin style buildings, are considered to be policy compliant, subject to the design of the scheme being considered to be of an appropriate scale and without causing any harm to the character and appearance of the affected landscape. An assessment of the scheme impacts on the range of issues that contribute to the character and appearance of the affected landscape are set out below.

## **3. Landscape Impact**

A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the application submission.

The following conclusion about the proposals are highlighted:

- The proposal would not disturb the field pattern.
- The proposal will not disturb the hedgerow structure except to create the proposed means of access, not significant in extent
- The proposal includes additional planting on the southern (HIGHWAY BOUNDARY)
- Spacing between the rows of panels will maintain a sense of a grassland environment from a habitats point of view.

The applicants LIVA states that the development would only have a slight affect on landscape and character of the site, and having considered the submissions and from observation at the site visit it is considered that the impact on the landscape character as a result of the proposals would be negligible.

## **4. Visual Impact**

The LVIA examines the visual impact of the proposals from various public viewing points and from the closest residential properties. As background the study has assessed the impact of the proposals

from the main visual receptors within a 3 Km radius. Although as stated by the comment made by local stakeholders there are four properties at Ellicombe farm, however it is not considered that this error invalidates the conclusions of the assessment, which is that there will be no or a slight visual impact in terms of how the proposals affect the nearest residential properties.

In terms of the impact from public viewing points the study considers the impact from 6 viewing points where theoretically the proposal may be visible from. The submissions include photographs demonstrating the current outlook from the identified points and how they would be affected by the application proposals. Given the site location, the existing vegetation covering and landscape structure the proposals would only be clearly visible from directly in front of the site from the B3320 (presented as an additional view). From the other viewing points the impact is either negligible and/or slight because they are distant views and/or the views of the array would be shielded by the existing vegetation.

In arriving at a conclusion it is acknowledged that notwithstanding the scope of additional planting proposed, the application scheme will change the visual amenities of the area when considered from the B3220. However the landscape will still present and read as a natural landscape that accommodates a small scale solar farm, (Ref: DLPG Advice Note 2) including two appropriately scaled portacabin style buildings to accommodate the associated plant and equipment.

Therefore it is not concluded that the visual impact of the development would justify refusing planning permission.

## **5. Impact on Wildlife**

An Ecological appraisal of the site has been conducted by the applicant. The appraisal included a desk based survey and field walk over.

The assessment conclusions assert that the proposals will not result in the loss of habitat, but should planning permission be granted the report goes on to identify a number of recommendations that should be followed through when and if the development goes ahead which the contractor will need to comply with in order to comply with other legislation.

It is noted that English Nature have not objected to the proposals but raise a number of points relating to the implementation of other legislation.

## **6. Impact on Heritage Assets**

The applicant has submitted an archaeological desk based study of the site, and the report established that the site has moderate potential to accommodate prehistoric elements, but not to such a level that the unrecorded heritage assets would present a constraint to the proposed development.

The applicant's archaeologist and the County Archaeologist have been in discussion on how best to resolve this matter, and the DCC archaeologist has recommended the following condition.

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure that an appropriate record is made of archaeological evidence that may be affected by the development'

## **7. Transport impacts and construction issues**

The proposed means of access to the site will be via A377 and the B3220.

Neither the Highways Agency, County Highways Officer and/or Public Rights of Way Officer have raised an objection to the application regards the adequacy of the access to the site, the route to the site and/or safety issues for other users of the highway. Subject to the applicant satisfying the terms of the following condition it is not considered that implementation and/or operation of the application scheme would have an unacceptable impact on the capacity and/or safety of other users of the highway.

- . No development shall start until a Method of Construction Statement, to include details of:
- (a) traffic management, and in particular at the site access to the B3220
  - (b) programme of works
  - (c) parking for vehicles of site personnel, operatives and visitors
  - (d) loading and unloading of plant and materials
  - (e) storage of plant and materials
  - (f) provision of boundary hoarding/security fencing behind any visibility splays
- shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.

REASON: In the interests of highway safety and to ensure adequate facilities are available throughout the construction period.

## **8. Other Issues:**

Flood Risk: The site is not within an area identified by the Environment Agency as being at risk of river flooding. However the provision of a solar array may increase the likelihood of more surface water runoff draining off the site than under the current situation. Accordingly, the provision of swales is necessary in order to intercept and infiltrate the runoff.

A swale is proposed to run along the northern perimeter of the site as shown on PFA consulting plan SKD175. If permission is to be granted it is recommended that the delivery of this infrastructure should be required by way of a condition.

Impact on Residential Amenity: There are a number of properties with 500 metres of the site but as stated above the views from these properties will be affected to some extent but none would have a direct clear view of the and the affected views would remain of an open landscape with PV installations. Furthermore given the separation distance it is not considered that issues relating to glint and glare from the panels would be an issue.

The Police was raised issues regarding site security and have raised this form of development as being a crime risk. This is a planning consideration. The applicants are addressing this issue through fencing and security cameras.

Height of fencing. Notwithstanding various references to fence height in the LIVA the security fence system detail plan shows it standing 1.8 metres above ground level and it is this detail that has been approved.

## **Conclusion**

The applicant has submitted a detailed package of evidence to support their proposals which is for a solar farm on Grade III agricultural land in the open countryside. The scheme covers part of a single field with solar panels, and maintains the existing perimeter hedgerow to the site. Additional planting The principal of the scheme is supported by local policy, and national policy in the NPPF, subject to the design of the scheme being considered to be of an appropriate scale and without causing any harm to the character and appearance of the affected landscape. The proposals will deliver benefits to the community at large, and will have a generating capacity of 143.5 MW of electricity which is equivalent to the energy needs of approximately 400 houses from a sustainable energy source, and as such will help achieve the Government target of producing 30% of our energy needs from renewable and sustainable sources by 2020.

The scheme design and it's impact have been tested by the applicant and the evidence base

submitted has been considered, along with the views of the local stakeholders who expressed an interest. In summary it is considered that the impacts of the proposal are acceptable when assessed against local and national policy. It is accepted that the proposals will change the visual amenities of this part of the landscape mostly within the context of distant views, with only one viewpoint from junction with B3220 (refer to supplementary view as submitted by the applicant) being moderately affected.

## CONDITIONS

1. The solar PV facility shall cease to generate electricity on or before 25th December 2037. The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities
  - h. highway condition surveys
  - i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice, and the advice in Ecological Appraisal undertaken by Avian Ecology
3. No development shall start until a Method of Construction Statement, to include details of:
  - (a) traffic management, and in particular at the site access to the B3220
  - (b) programme of works
  - (c) parking for vehicles of site personnel, operatives and visitors
  - (d) loading and unloading of plant and materials
  - (e) storage of plant and materials
  - (f) provision of boundary hoarding/security fencing behind any visibility splaysshall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.
4. The additional planting as shown on the Ellicombe Farm detailed planting Plan received on the 11th September 2012 , including all planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 3 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof) , die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
5. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.

6. Further details of the sedum roof and external finish to the two portacabin buildings as shown approved drawings (66)602C2 and (66)603C3 shall be submitted to approved in writing by the local planning authority prior to the commencement of this part the approved scheme. Once provided the structures shall maintained in accordancve with the approved details.
7. All cables shall be placed underground, except at the point of connection to the electricity grid system.
8. The swales shown on drawing SKD/175 shall be provided within 12 months of the date of this approval or within 28 days of the completion of the development hereby approved. Following their implementation the swales shall be managed and maintained in an operational condition until the site has been de-commissioned.
9. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority

## **REASONS FOR CONDITIONS**

1. To reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity, highway safety and protected species in accordance with Devon Structure Plan 2001-2016 Policies CO6, CO9 and TR10, Mid Devon Core Strategy (Local Plan 1) Policy COR2, Adopted Mid Devon Local Plan (LDF) Policies S5, S6 and ENV16 and government guidance in the National Planning Policy Framework.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of highway safety to ensure that adequate on-site facilities are available for traffic attracted to the site, the efficient operation of the local road network, and to safeguard the amenities of neighbouring residents in accordance with Devon Structure Plan 2001-2016 Policies CO6 and TR10, Mid Devon Core Strategy 2007 Policy COR2 and Adopted Mid Devon Local Plan (LDF) Policies S5 and S6.
4. To safeguard the visual amenities of the area in accordance with Devon Structure Plan 2001-2016 Policy CO6, Adopted Mid Devon Local Plan (LDF) Policies S5 and S6 and Mid Devon Core Strategy 2007 Policy COR2.
5. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.
6. To minimise the potential for light pollution and disturbance to local amenity in accordance with Adopted Mid Devon Local Plan (LDF) policies S5 and S6.
7. To prevent an increase in flooding and to provide adequate means of surface water disposal, in accordance with Devon Structure Plan 2001-2106 Policy CO13, Mid Devon Core Strategy 2007 Policy COR9, Adopted Mid Devon Local Plan (LDF) Policies S5 and S11 and Government guidance in Planning Policy Statement 25.
8. To prevent an increase in flooding and to provide adequate means of surface water disposal in accordance with Policy CO13 of the Devon Structure Plan 2001-2016, Policy COR9 of the Mid Devon Core Strategy (Local Plan 1), Policies S5 and S11 of the Adopted Mid Devon Local Plan (LDF) and the National Planning Policy Framework.

9. To ensure that an appropriate record is made of archaeological evidence that may be affected by the development, in accordance with Policy CO8 of the Devon Structure Plan 2001-2016, Policy ENV7 of the Adopted Mid Devon Local Plan (LDF) and the National Planning Policy Framework.

#### **INFORMATIVE NOTE**

1. With regard to safeguarding of protected species; the developer is advised that the granting of this planning permission does not absolve the developer from complying with the relevant law, including obtaining and complying with the terms and conditions of any licences required as described in Part IVB of the Circular 06/2005.

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

The proposed development, subject to the imposed conditions, is considered acceptable with regard to design and siting, its impact on the historic, visual and landscape character of the area, ecology and wildlife, highway safety, flooding and drainage, residential amenity of nearby properties and with regard to all other material considerations. The contribution of the scheme to renewable energy targets on land that is not considered to be the most versatile agricultural land is considered to outweigh any limited harm to the visual and landscape amenities of the area that may arise as a result of the development as proposed. Therefore, on balance it is considered that the development would accord Local Planning Policies CO1, CO3, CO6, CO7, CO8, CO10, CO12, CO13, CO14 and TR10 of Devon Structure Plan 2001-2016, policies S5, S6, S11, E13, ENV7, ENV16 of Mid Devon Local Plan (LDF), COR2, COR5, COR9, COR11 and COR18 of Mid Devon Core Strategy (Local Plan 1), Policies DM/1, DM/5, DM/28 Local Plan Part 3 and the National Planning Policy Framework.

#### **Statement of Positive Working**

In accordance with the requirements of Article 31 of the Town & Country Planning (Development Management Procedure) (England) Order, 2010, as amended, in determining this application, the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been appropriately resolved. This has included: pre-application and ongoing discussions.

In accordance with paragraph 69 of the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

# APPENDIX 4

Application No. 12/01376/MFUL

Plans List No. 6

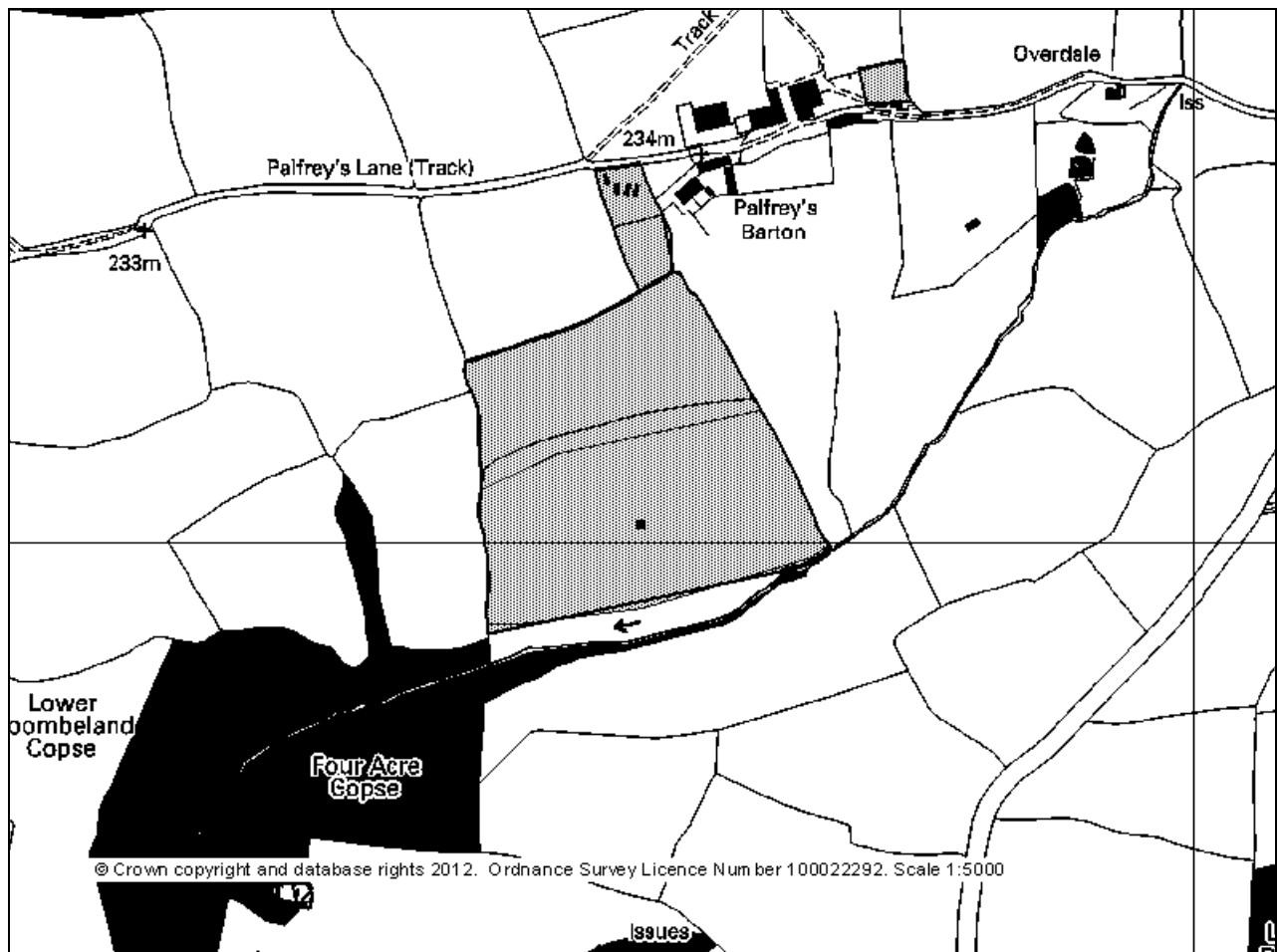
Grid Ref: 296542 : 118012

Applicant: Mr Nick Boyle

Location: Land at NGR 296542 118012 (Palfreys Barton) Cove  
Devon

Proposal: Installation and operation of solar farm to generate  
0.96 megawatts (site area 3.53 hectares), associated  
infrastructure, including PV panels, mounting,  
frames, inverters, transformers and fence

Date Valid: 25th September 2012



## **Application No. 12/01376/MFUL**

### **RECOMMENDATION**

**Grant permission subject to conditions.**

### **PROPOSED DEVELOPMENT**

The application seeks a 25 year permission for the installation of a 0.96MW solar farm on 3.55 hectares of Grade 3 agricultural land. The site is approximately 200 metres to the south Palfreys Barton Farm and slopes down from north to south with a south facing aspect.

**Panels:** The development consists of the installation of approximately 3,920 solar photovoltaic panels measuring approximately 2m x 1m and 0.05m in depth. The panels will be attached to static mounting frames at an angle of 25 degrees. The panels and frames will have a maximum height of 2.5m. The frames will be arranged in rows running east-west across the site and will be driven into the ground to a depth of 1.5m.

**Inverter and switchgear housing:** PV panels generate direct current (DC) electricity which must be converted to alternating current (AC) electricity before it can be fed into the National Grid. The application includes a number of associated structures as follows:

- Two dark green metal clad inverter/transformer cabinets, one measuring approximately 4.65 metres x 2.61 metres and 3.15 metres high and another measuring approximately 6.15 metres x 2.61 metres and 3 metres high.
- One metal clad communications building measuring approximately 7.2 metres x 3 metres and 2.4 metres high.
- Two structures to be provided to house the distribution network operator's switchgear which disconnects the electrical circuits if there is a fault in the system. Provision of these structures by the DNO is permitted development.

All structures will be located on the eastern side of the site adjacent to the boundary hedge.

**Security fencing:** A 2 metre high deer fence with small mammal gates will be installed around the solar farm.

**Security cameras:** Motion sensor CCTV cameras will be erected around the site perimeter fence on poles approximately 4 metres in height. No lighting is proposed.

**Access:** Access will be through adjacent fields from the farm. The farm is accessed via Palfreys Lane which is made up only as far as the farm itself. Palfreys Lane is also a public bridleway.

**Hedges and trees:** No hedges or trees are to be removed and any gaps in the existing hedges will be filled with additional native planting.

**Surface water drainage:** A swale to meet Environment Agency requirements will be provided to intercept any surface water not soaking away directly into the ground around the panels.

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

Landscape and Visual Impact Assessment  
Ecological Assessment  
Archaeological Assessment  
Flood Risk Assessment  
Construction Management Plan.

### **PLANNING HISTORY**



None.

## **DEVELOPMENT PLAN POLICIES**

Devon Structure Plan 2001 – 2016

CO1 - Landscape Character and Local Distinctiveness

CO6 - Quality of New Development

CO8 - Archaeology

CO10 - Protection of Nature Conservation Sites

CO12 - Renewable Energy Developments

CO13 - Protecting Water Resources/Flood Defence

TR10 - Strategic Road Network

## **Adopted Mid Devon Local Plan (LDF)**

S5 - General Development Requirements

S6 - Design of New Development

S11 - Surface Water Drainage

ENV7 - Archaeological Investigation

ENV16 - Protected Species

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR5 - Climate Change

COR9 - Access

COR11 - Flooding

COR18 - Countryside

## **Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission**

DM/1 - Presumption in favour of sustainable development

DM/5 - Renewable and low carbon energy

DM/28 - Development affecting heritage assets

## **CONSULTATIONS**

TIVERTON TOWN COUNCIL - 16th October 2012 - Support.

HUNTHSAM PARISH COUNCIL - BORDENGATE - 23rd October 2012 - Recommended permission be refused. The Council felt that the development would have an effect on the local amenity and that it is not in keeping with the surrounding rural area. They would also request an environmental impact statement.

HALBERTON PARISH COUNCIL - 11th October 2012 - The proposed development was not in the Parish of Halberton but the Parish Council had been consulted by Mid Devon District Council as 'consultee' under its new regime of consulting with adjoining parishes.

However as Mid Devon District Council had declined to provide the Parish Council with hard copies of the planning application and plans, the Parish Council was not in a position to make any comments.

HIGHWAY AUTHORITY - 5th October 2012 - Observations: In highway terms the development proposal is acceptable. However, I note that the route to site will be over part of Tiverton Bridleway 14. I have advised the Rights of Way officer who may wish to comment.

Recommendation: The Local Highway Authority has no objection to the proposed development.

ENVIRONMENT AGENCY - 16th October 2012 - We have no objection to the proposal subject to the following condition:

Condition - The development approved by this permission shall include swales on the downward slope of the plot to intercept any additional runoff. The swales shall be 300mm deep with 1 in 5 side slopes, be built parallel to site contours, and include check dams at suitably designed intervals such that waters are retained within the swale.

Reason - To prevent an increase in surface water runoff thus ensuring there is no increase in flood risk.

HISTORIC ENVIRONMENT SERVICE - 28th September 2012 - Assessment of the Historic Environment Record (HER) and the details submitted by the applicant suggest that the scale and situation of this development will have no archaeological impact.

DEVON & CORNWALL POLICE AUTHORITY - 1st October 2012 - Solar Farm Security

Risk

The South West of England has been identified as having the necessary solar power to make commercial Solar Farms a viable option. Farming energy from the sun using photovoltaic panels on a commercial scale is a new venture and will bring with it new risks and challenges to protect the location and panels from criminals. Because this is a new project there is no UK crime data to base crime prevention advice on.

Policing experience elsewhere indicates that placing large quantities of expensive photovoltaic panels in isolated locations without adequate protection will attract criminals and they will be stolen. The main risk will come from organised gangs who will use heavy duty tools and vehicles to remove large quantities of the panels. Once stolen the panels may be moved from the crime scene before re-emerging for sale.

Site

In view of the potential risk when considering suitable location for Solar Farms a major consideration from a police view will be how the site can be protected from unauthorised vehicle entry. Full consideration of the natural defences of location should be taken into consideration for e.g. steep gradient, substantial hedging, Rivers etc. Where ever possible the boundary protection of the site should be an appropriate distance from the actual panels to discourage parking a vehicle against the boundary and manually lifting panels onto the vehicle.

Access to the Site

The solar company/site owner will require vehicular access to the site. The physical security guarding this access must be robust to sustain a high level of attack as these sites will probably be remote and lacking any natural surveillance. Consideration should be given to protecting the access road at two separate locations (1) At the actual entrance to the site and (2) set away from the specific entrance to keep authorised vehicles a substantial distance from the site.

The security of solar farms must be properly assessed by all those involved in the planning process.

To be considered a truly sustainable resource within the National Grid, solar farms will need to be as secure as possible.

All planning applications should therefore include full details of the security proposals within the Design and Access Statement (as required by Department for Communities and Local Government Circular 1/2006 paragraph 87) The security measures to be incorporated at each location will have to be considered on a site specific basis. They will obviously be determined to some degree by, for example, the existing landscape and local planning constraints etc the basic principle of all crime prevention is to provide layers of defence to whatever is in need of protection.

In the case of Solar Farms this protection will almost certainly require both the physical element, such as fences or ditches and also the utilisation of appropriate technology such as CCTV and motion detectors.

The advice offered below covers the general crime prevention points which should be considered by any applicant.

#### Perimeter Security and Access Control

If perimeter fencing is to be used then it should be a proven security fence. The recommendation would be to install fencing which has been tested and approved to current UK Government standards.

Fencing which meets the SEAP (Security Equipment Approval Panel) class 1-3 may be the most appropriate.

Fencing which is not of a specialist security type is likely to offer at best only token resistance to intruders. however if supplemented with movement detectors attached to the fence together with motion detectors/beams internally this could potentially be acceptable.

Planting up and alongside any fencing will be acceptable providing there is no detrimental effect upon site surveillance that is available or allow easy access over the fence by climbing trees etc..

The standard for rating bollards, blockers and gates is PAS 68:2007 and PAS 68:2010.

Landscaping techniques such as ditches and berms (bunds) may also be appropriate in some instances. To be effective in stopping vehicles these need to be designed carefully. Police are able to provide further specific advice in relation to the design of such defences upon request. There should be a minimum number of vehicular access points onto site, ideally only one.

Clearly such access points will present the most obvious means for the criminal also and therefore will require a robust and adequate defence.

Some thought should also be given to the wider issues of access around any site. If for instance the land surrounding the site is under the same ownership can this be made more secure by improving gates etc. Again this provides layers of difficulty for the criminal to overcome.

#### Electronic Security

There is a huge range of electronic security available. For most sites it is very likely that this will play an important role.

In selecting which type of technology to employ a proper assessment on a site specific basis should be undertaken to ensure any system will be fit for purpose.

For CCTV this assessment is commonly called an Operational Requirement (OR) An obvious example would be to establish how effective will the CCTV be at night at these locations, bearing in mind distance involved, quality of lens/equipment.

There will be little point in deploying CCTV or other defence unless it is monitored in some way or can provide an instant alert in some form and also who would then respond to this?

CCTV which simply records will probably be of very limited value and basically not fit for purpose.

#### Other Options

The presence of site security personnel in some capacity should be considered including perhaps in terms of some types of response to site alarm activations If the individual solar panels can be marked overtly this would reduce the ease with which they could be re sold/re used and thus help act as an additional deterrent.

Covert marking should also be considered.

Consultation with local police Beat managers following installation would be beneficial identifying points of access, routes to the site etc in the event of assistance being required.

EXETER INTERNATIONAL AIRPORT - 1st October 2012 - This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding criteria.

The Interim CAA document that gives relevant guidance on Solar Photovoltaic Systems is attached. Particular attention should be paid to section 3 regarding the Air navigation Order (ANO) 2009 articles 137, 221 and 222. If in practice pilots do experience glint/glare related annoyance from this development then the developer must take preventative measures to minimise this hazard.

Accordingly, Exeter International Airport has no safeguarding objections to this development provided there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation with Exeter International Airport.

CAA - Solar PV - 27th September 2012 - Firstly we would ask that you consult any aeronautical safeguarding maps which may have been issued to your Planning Department. These will indicate any statutory consultation obligations. In addition to this standard recommendation, as the subject of solar energy developments is currently under widespread discussion in planning circles, I would offer the following advice.

There is in general no need to seek CAA comment when planning a solar energy installation. However, if the site in question is near an aeronautical facility, aviation stakeholders may ask for their interests to be taken into consideration. If the proposed development is within the boundary of a licensed aerodrome it will need prior CAA approval and it is the responsibility of the licence holder to arrange this. Any installation on a structure of a height exceeding 90 metres will require the comment of the CAA's Airspace Policy Directorate at CAA House, 45-59 Kingsway, London WC2B 6TE.

The CAA is currently developing a policy for solar energy installations with a view to producing a standard advice document. Worldwide progress in solar technology has prompted a number of studies by regulatory authorities and these will be fully considered as the CAA view matures. At present, while recognising that the solar energy industry is likely to expand significantly over the coming years, the CAA is aware of some potential hazards, for example (1) solar reflections may cause glare or dazzle pilots, (2) solar reflections near aerodromes may be confused with aeronautical lights, (3) installations may cause electromagnetic interference with navigation aids, and (4) panels installed vertically or on other structures may obstruct airspace.

The CAA's advice to planning authorities who are considering a solar energy application is that they should first meet any statutory consultation obligations concerning safeguarded airports or air traffic control sites or military sites. As part of the planning application the developer should ideally supply safety assurance documentation regarding the potential impact of the installation including a risk assessment addressing any aviation concerns. If the development is within the boundary of a licensed aerodrome there will be a need to supply data on the reflectivity of the panel material, to enable the implications to be assessed. Initially this data should be given to the aerodrome operator rather than the CAA. During the installation the use of cranes should be discussed with the operators of nearby aerodromes.

The CAA's advice to developers is that aerodromes within 5km of an installation may be affected, and larger airports may require consultation over a wider area. The major airports are subject to statutory consultation which is carried out by the planning authority. The smaller aerodromes rely on direct consultation from developers and therefore a consultation radius of 5km is recommended. In response to such consultation an aerodrome operator might identify problem areas such as the landing approach, but a general objection to development would be unlikely.

Any solar energy development under the Electricity Act would normally involve consultation with the CAA by the relevant approving authority. The principles outlined above would form the basis of the CAA's advice in any such case.

Pending the completion of a more comprehensive advice document the CAA has published some interim guidance on the CAA website.

NATIONAL AIR TRAFFIC SERVICE - 28th September 2012 - The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Limited has no safeguarding objections to this proposal.

Please be aware that this response applies specifically to the above consultation based on the information supplied at the time of this application. If any changes are proposed to the information supplied to NERL in regard to this application (including the installation of wind turbines) which become the basis of a full, revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

## **REPRESENTATIONS**

10 public objections summarised as follows:

1. The scheme is not associated with farming or any countryside activity and is an industrial installation which detracts from the existing environmental value of the landscape.
2. It removes productive farming land for 25 years.
3. The application is full of technical inaccuracies and misleading statements: in winter electricity demand is greater at night, a capacity factor of 5% is more accurate than the 11% claimed, and it is unlikely that this scheme could power 50 homes let alone the 288 claimed; it is not possible to equate installed capacity with household consumption; the carbon saving is an exaggeration and ignores the carbon footprint of Chinese solar panels, associated infrastructure and operating plant.
4. Most of the electricity will be lost with a connection to an 11kV line.
5. The applicant has failed to set out clearly and truthfully what the benefits will be in order for the planning officer to balance the impacts
6. The proposal does not benefit the local community.
7. Subsidies (FIT) were not intended for commercial ventures but are aggressive subsidy grabs; farm buildings could be utilised for self-use schemes
8. DECC has made it clear that solar PV is intended for development in the built environment, not in open countryside.
9. The visual impact of the security fence and associated buildings has not been assessed in the Visual Impact Assessment and is not fit for purpose; the panoramic images have been produced to diminish the view.
10. The cumulative effect on the countryside (particularly the loss of agricultural land and adverse

impact on tourism) must be considered.

11. Bampton is one of the gateways to Exmoor and should this and other developments be granted the gateway will be a series of these Staleg type structures ring-fenced with security cameras.
12. The proposal will leave a legacy of industrialisation on the area.
13. The solar panels are to be erected close to a bridle path and the road. The security fence and cameras will destroy the natural beauty of the coomb for walkers and riders. The ridge extending from Bampton Down is beautiful and cannot be disfigured by black glass panels and prison camp fencing.
14. The development will be detrimental to the Brown Hare population in the area as it will destroy their habitat.
15. CO14 of the Devon Structure Plan states that alternative uses for agricultural land should only be permitted where there is an overriding need for the development at the location: this is not the case. ENV1 states that development in the countryside should only be permitted where a rural location is required, it provides economic or social benefits to the local community and it protects or enhances the landscape character, natural resources and ecological, recreational and archaeological value. COR18 states that development in the open countryside should be strictly controlled to that which enhances its character, appearance and biodiversity.

Campaign to Protect Rural England object for the following reasons:

1. Solar farms are industrialisation of the countryside on a large scale, particularly as surrounded by high fencing and security cameras, at variance with the rich landscape of Devon's countryside and contrary to COR2 of the Mid Devon Core Strategy (LP1) and Devon Structure Plan policy CO1.
2. The site is within the landscape character area Upper farmed and wooded valley slopes in the Mid Devon Landscape Character Assessment. Such landscape is sensitive to change and the development would be incongruous in this landscape. The LCA states that solar farm should be carefully sited favouring areas such as those already spoilt by roads.
3. Visitors and local people enjoy the amenity of walking, cycling and riding through unspoilt countryside. A public bridleway runs to the north and cycle route N3 runs along the lane. The Visual Impact Assessment states that views will only be through field gates but photos are misleading as they are taken in poor weather conditions and when the hedges are in leaf. Most riders would be able to see over the 2m hedge.
4. Three residential properties could see the site from their upper storeys.
5. The access route is also a bridleway and is not wide enough to accommodate heavy traffic and riders affecting the amenity of riders.
6. The solar farm would not provide any benefit to the local community nor has a local need been referred to.
7. The proposal runs counter to the Government's intention for the FIT - it should be for micro-generation and not commercial solar farms.
8. The proposal would result in loss of agricultural land.
9. The proposal would not enhance the character, appearance and biodiversity of the countryside whilst promoting sustainable farm diversification.
10. Badger setts were recorded and fencing the site would have a detrimental impact on badgers. The site could also be attractive to otters and there are deer in the area which would not be able to access the site. There may also be an impact on foraging areas for bats.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

- 1. Policy**
- 2. Highway safety**
- 3. Visual impact**
- 4. Landscape impact**
- 5. Trees, hedges and nature conservation**
- 6. Flood risk**

- 7. Glint and glare
- 8. Environmental Impact Assessment
- 9. Other issues

## 1. Policy

### National/regional renewable energy policy

The National Planning Policy Framework and the companion guide to PPS22 support the delivery of renewable energy and in particular advise that Local Planning Authorities should have a positive strategy to promote energy from renewable sources. In determining planning applications the Government requires that applications should be approved where the development's impacts are (or can be made) acceptable.

Policy RE6 of the Regional Planning Guidance for the South West RPG10 on energy generation and use establishes the role of the South West region in supporting and encouraging the meeting of national targets for a 12.5% reduction in greenhouse gas emission below 1990 levels by 2008 – 2012 and a 20% reduction (from 1990 levels) in carbon dioxide emissions by 2010 together with a minimum of 11-15% of electricity production from renewable energy sources by 2010. The policy encourages and promotes the greater use of renewable energy sources and indicates it is feasible for the region to seek an 11-15% target electricity production from renewable sources.

The draft Regional Spatial Strategy for the South West (RSS) regional target is a minimum of 509 – 611MWe installed capacity from a range of onshore renewable energy technologies by 2010 with a Devon target of 151 MWe from a range of onshore renewable electricity technologies. The RSS also seeks to establish a 2020 regional minimum cumulative target of 850 MWE but this is not broken down sub-regionally. Policy SD2 Climate Change sets out a target for regional reduction in greenhouse gas emissions. This is in line with national targets of 30% by 2026 (compared to 1990 levels) as part of longer term reduction by 2050. The RSS also incorporates a 20% reduction in CO2 emissions by 2010 and a 60% reduction by 2050 and this equates to a 30% cut in CO2 emissions over the RSS period up to 2026.

The Government has made clear its intention to revoke these documents.

### Local renewable energy policy

Policy CO12 of the Devon Structure Plan 2001-2016 on renewable energy developments requires provision to be made for such proposals in the context of Devon's sub-regional target of 151MW of electricity production from land based renewable sources by 2010 subject to the consideration of their impact upon the qualities and special features of the landscape and upon the conditions of those living and working nearby. Due to timing, the proposal if granted would not be in a position to contribute to the 2010 target, but would contribute to longer term targets.

Policy COR5 of the Mid Devon Core Strategy on climate change is relevant to this scheme in that it seeks to deliver a contribution towards national and regional targets for the reduction of greenhouse gas emissions. Development of renewable energy capacity is supported where local impact is acceptable with particular reference to visual, nearby residents and wildlife.

Policy DM/5 of the Local Plan Part 3 Development Management Policies Proposed Submission states that proposals for wind turbines, solar power installations and other forms of renewable or low carbon energy will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area,

### Other relevant planning policy

The National Planning Policy Framework includes a core planning principle relating to taking account of the different roles and character of different areas including recognising the intrinsic character and beauty of the countryside. It also refers to the planning system protecting and enhancing valued landscapes. In respect of highway safety, the NPPF requires safe and suitable access to the site. It goes on to states that planning permission should only be refused on transport grounds where the residual cumulative impacts of development are severe. Economic growth in rural areas is supported.

This relates to all types of businesses and enterprise with a positive approach to sustainable new development.

#### **Devon County Structure Plan 2001-2016, adopted 2004**

Policy CO1 requires that the distinctive qualities and features of Devon's Landscape Character Zones should be maintained and enhanced and that policies and proposals should be informed by and be sympathetic to its landscape character and quality.

Policy CO6 requires that the identity, distinctive character and features of rural areas should be conserved and enhanced. In planning for new development the local planning authority should maintain and improve the quality of Devon's environment by requiring attention to good design and layout that respects the character of the site and its surroundings.

Policy CO8 requires the archaeological importance of sites to be understood and where appropriate protected.

Policy CO10 requires consideration to be given to the impact of the development of wildlife and protected species and their habitats and the provision of appropriate mitigation where necessary.

Policy CO13 requires that all new development should be subject to an appropriate drainage assessment, and wherever possible appropriate sustainable drainage systems. Development should not be provided where it would increase the risk of flooding to an unacceptable level.

Policy CO14 relates to the protection of best and most versatile agricultural land unless there is an overriding need for the development

Policy TR10 states that development proposals should not adversely affect the road network in terms of traffic and road safety and access to the network.

#### **Mid Devon Local Plan (LDF)**

Policy S5 sets out general development requirements as a series of criteria aimed at ensuring the development has an acceptable impact on the environment and the amenity, health or safety of nearby occupants (including any additional road traffic arising).

Policy S6 sets out criteria in respect of the design of new development and seeks to ensure that development respects and enhances the distinctive historic, landscape and settlement character of the locality, taking account of locally important features, vistas, panoramas and skylines and minimises adverse impacts on the environment and existing land uses likely to be affected.

Policy S11 relates to the need for Sustainable Urban Drainage Systems or other surface water management to ensure that surface water run-off from new development is equivalent in quantity, rate and quality to that expected from the undeveloped site.

Policy E13 encourages schemes which are considered to be farm diversification.

Policy ENV7 seeks to ensure that the archaeological importance of a site is understood and to protect sites of archaeological importance.

Policy ENV16 seeks to prevent development which may have an adverse impact upon protected species and their habitats unless appropriate mitigation can be agreed.

#### **Mid Devon Core Strategy (LP1)**

Policy COR2 on local distinctiveness states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places, the efficient use and conservation of natural resources of land, water and energy, c) the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape,



supporting opportunities identified within landscape character areas and d) protection of national and local biodiversity. The importance of conservation / preservation or enhancement of landscape character and appearance is therefore common to regional, county and local levels of planning policy.

Policy COR11 states that development will be guided to sustainable locations with the lowest risk of flood by applying the sequential test and locate appropriate development in areas of higher flood risk only where the benefits outweigh the risk of flooding; development should be managed to ensure that it does not increase the risk of flooding of properties elsewhere and should where possible, reduce the overall risk to life and property.

Policy COR18 considers development outside settlements and states that such proposals will be strictly controlled to those enhancing the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It goes on to state that detailed development control policies will permit agricultural and other appropriate rural uses, subject to appropriate criteria. Renewable energy proposals are in principle acceptable in rural locations under this policy.

#### Local Plan Part 3 Development Management Policies Proposed Submission

Policy DM/1 provides that applications should be approved wherever possible to secure development that improves the economic, social and environmental conditions in the area.

DM/28 seeks to understand the significance of heritage assets (including archaeology) and to ensure heritage assets are not harmed without appropriate justification.

National and local planning policies support renewable energy developments in principle, where visual and environmental impacts and impacts on neighbouring occupants, are acceptable.

## **2. Highway safety**

A Construction Method Statement has been submitted with the application which confirms that the access will be via Palfreys Lane which is also a public bridleway, and through the two fields to the north of the site, through the existing field gates. There are 3 distinct phases, construction, operation and decommissioning, each with different highway implications.

During the construction phase (4-6 weeks) it is anticipated that delivery of the components will require approximately 30 HGV truckloads in total, a maximum of 2-3 each day, deliveries to take place during daylight hours but outside peak traffic times.

There will only be limited traffic attracted to the site during the operational stage.

Details of the means of decommissioning the site and associated highway safety measures will be required by condition prior to decommissioning.

The Highway Authority has confirmed that in highway terms the development proposal is acceptable. However, the officer notes that the route to site will be over part of Tiverton Bridleway 14 and he has advised the Rights of Way Officer who he considered may wish to comment. No comment has been received from the Rights of Way Officer as at the date of this report. Concern has been raised that use of the lane by large vehicles is incompatible with use by horse riders. The lane provides access to Palfreys Barton farm and is already available for use by agricultural vehicles which can often be large. As deliveries are to be limited to 2-3 per day, and the Construction Method Statement confirms that no vehicle parking, loading or unloading will take place within the public highway (the public bridleway is a public highway), it is not considered that there will be an unacceptable impact on users of the bridleway during the construction period and an insignificant impact on users during the operational period.

On this basis, it is considered that the proposal complies with Policy TR10 of the Devon Structure Plan 2001-2016 Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.

### 3. Visual impact

The visual impacts of the proposal are in relation to the panels themselves, the perimeter fencing, inverter, switchgear and DNO housing, communications building, access track and to a lesser extent, the surface water drainage swale. The development will have a material impact on the appearance of the site, which is at present a pasture field. A Visual Impact Assessment has been submitted which identifies the main public viewpoints from which the development will be visible. Your officer has also visited the site and viewed it from several vantage points.

Concern has been raised with regard to the accuracy of the Landscape and Visual Impact Assessment, particularly in relation to the panoramic photography not giving an accurate reflection of the situation on the ground and also that the descriptions of the associated infrastructure are incorrect. Although the panoramic images do give the impression of a greater distance between the viewpoint and the site, they do allow a judgement to be made in respect of the visibility of the site within the landscape.

The inaccuracies with regard to the building types and site layout do not affect the overall assessment of the impact of the site within the landscape as the site has very limited visibility from public vantage points. Your officer has taken these points into account when making an assessment of the visual impact of the proposed development. Your officer has visited the site and made an independent assessment of the likely visual impact of the proposal site from the road and from the bridleway.

Views from the road to the east of the site, running north to south, are highly restricted by the topography and boundary hedges and trees, with viewpoints limited to through field gates. This is so even after the leaves have started to fall in autumn. Horse riders may be able to glimpse the development from the bridleway but it will not be prominent in views of the landscape. Views from the south and west are largely screened by woodland or rising land. The Visual Impact Assessment states that views of the site will be possible from the upper windows of three dwellings but these views will be partial and your officer does not consider that the development will have material impact on residential amenity.

#### **The Visual Impact Assessment concludes that:**

"The site is located on the slopes of a steeply incised small valley which generally results in views being restricted from locations within 200 metres of the site. Where partial views are possible these are from a restricted number of windows to the upper storeys of residential properties close to the site. Additionally, the proposals will be viewed as a small element within the wider landscape."

Overall, your officer does not consider that the development would lead to an unacceptable visual impact on the landscape, the site being visible from very few public vantage points, and then only partially or glimpsed.

The existing hedgerows surrounding the site are reasonably intact, but where gaps exist along the eastern and western boundaries that are greater than 1m in length, these are to be replanted with native species mix so as to improve the structure of the hedgerow, provide wildlife benefit and improve screening. Bearing in mind the very limited visibility of the site within the landscape, your officer considers this to be sufficient.

Concern has been raised with regard to the cumulative impact of this and similar developments in the area on the visual quality of the area. There are no other solar farms existing or with planning consent in the area and each application must be looked at on its own merits. The site has very limited visibility in the landscape and is likely to be glimpsed, if seen at all, by road users or tourists, and have limited views by those using the bridleway. Views from the bridleway are likely to be seen in the context of the existing farm complex with a number of holiday caravans, and not to be an isolated feature in the landscape.

The proposal is considered to comply with Policy CO1 of the Devon Structure Plan 2001-2016, Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1).

#### 4. Landscape impact

The site does not lie within any landscape designation, although there are blocks of ancient semi-natural woodland nearby, the nearest being to the south west of the site.

The Landscape Character Assessment identifies the landscape character area as being within the National Character Area 148 Devon Redlands, as described by Natural England in the Character Map of England (2005). The Devon Redlands Landscape Character Area is characterised by a hilly landscape of villages, hamlets, farmsteads, hedgebanks and winding lanes, cut through by steep sided valleys and wide floodplains, with large woodlands confined mainly to steep valley sides and extensive urban development, roads and railways on the lower valleys.

At County level, the majority of the site lies within the Bampton and Beer Downs Landscape Character Area with the lower half of the southern field within the Exe Valley Landscape Character Area.

The Bampton and Beer Downs LCA is described as a remote and quiet landscape with steep lanes between high hedgebanks and flat hilltops having a sense of spaciousness. Valleys are enclosed and secretive. The Exe Valley LCA is described as a deep and dramatic wooded valley, with valley sides being quiet and secretive with a strong sense of enclosure.

The Mid Devon District Landscape Character Assessment 2011 identifies the site as located within landscape character type 3A: Upper Farmed and Wooded Valley Slopes. This landscape is characterised by convex and rounded hills forming ridges with gently dipped valley slopes, which in a few places become sheer steep slopes, well-managed and dense hedgerows with medium to large-scale pasture enclosures, ridge-top hedgebanks running along the highest ground with field compartments dropping away from the ridge, isolated farms and buildings which tend to be visually prominent in the landscape, often connected by tracks and lanes, and long-distance views from one hilltop to another.

The Landscape Character Assessment states that the solar farm will bring a completely new type of development into the existing rural farmland context and one which is generally incongruous with the surrounding landscape character. However, it does on to say that the solar panels at only 3m in height would not form imposing features on the landscape. The site benefits from a high degree of seclusion because of the sloping topography and existing field boundaries.

Although the fence, security cameras and buildings are not specifically mentioned in the Landscape Character Assessment, your officer does not consider these will have a different impact on the landscape from that assessed for the solar panels. The fence is to be a deer fence consisting of timber posts and deer wire to a maximum height of 2m. The cameras will be installed at intervals around the fencing on posts at approximately 4m in height. The buildings look similar to storage containers and will be coloured dark green and located on the least visible side of the field. The buildings will have a maximum height of 3.15m so are similar in height to the solar panels themselves. In addition, the farm complex of buildings and a number of holiday caravans are elements in the landscape which with the solar farm will be viewed so it will not be viewed in isolation to other development in the landscape.

The LCA further states that:

"The solar farm would result in a temporary reduction in useable farmland for the life of the development, however, due to the relatively small scale of the field and the prevalence of agricultural land within the study area it is anticipated that this impact would be limited. Due to careful siting of the proposed development utilising existing boundary treatments and topographical low points, it is anticipated that the proposed development would have a limited impact on the landscape character of the surrounding area".

The Landscape Character Assessment concludes that the proposed development will not result in any loss or impact to landscape features or have an impact on the landscape character at a local or national level. The proposed development respects the character of the landscape by respecting the strong field pattern, utilising existing access points and using landscape features to provide screening.

Although the landscape character of the field itself will change significantly, the site is small and very well screened within the landscape and it is not considered that the development will have a material impact on the landscape character of the wider area.

The proposal is therefore considered to comply with Policy CO1 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework) in respect of its anticipated landscape impact.

## **5. Trees, hedges, nature conservation and archaeology**

The site is laid to pasture and is bounded by hedgerows. There are no trees on the site itself. All hedgerows are to be retained and supplemental planting of gaps carried out using native species. The development will not impact on these features.

The submitted ecology survey and report has identified that the surrounding hedgerows are suitable dormouse habitat. However, as no hedgerows are to be removed or severed by the scheme, the impact on any dormice potentially present on the perimeter of the site is likely to be minimal.

The report has identified badger setts within the site boundary. Additional correspondence from the ecologist states that:

"Following the preparation of the Ecological Phase 1 Habitat Survey, where badger setts were identified within the hedge to the north of the development area, Lightsource revised the layout of the solar farm to ensure that all development was at least 30m from the badger setts. Based on the final layout drawings for Palfreys Barton, no development will take place within 30 metres from badger setts identified as part of the phase 1 habitat survey. It is considered that this will effectively avoid any adverse impacts on the badger setts.

Badger gates will also be placed within the proposed fencing along all badger paths within the site. This will result in a minimum of approximately two badger gates located on each side of the rectangular solar farm area.

If a further potential badger sett is found during the construction phase, all work will stop immediately in that area and an ecologist will be contacted and called to site to assess the area."

It is recommended that the development proceeds in accordance with the ecologists recommendations and installation of the badger gates is conditioned.

The development is not considered to have material impact on any other protected species, provided the hedgerows remain intact. Concern was also raised over the impact of the development on brown hare habitat. This is a Biodiversity Action Plan species but there is no evidence that the site itself supports brown hare, and it is only a small area within the wider area of similar habitat and will continue to be accessible to small mammals via the badger gates.

The submitted archaeological investigation report has assessed the site as having low archaeological potential and does not recommend any further investigation.

On this basis, the proposal is considered to comply with Policy CO10 of the Devon Structure Plan 2001-2016, Policies S5, S6, ENV7 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework), Policy DM/28 of the Mid Devon Local Plan Part 3 (Development Management Policies) **Proposed Submission and the National Planning Policy Framework.**

## **6. Flood risk**

The site is within Flood Zone 1 which has the lowest probable risk of flooding. Sequential tests required by the NPPF direct development to the areas with the least probability of flooding (i.e. Flood Zone 1). However, surface water drainage from the panels has the potential to cause localised run-off problems. The submitted Flood Risk Assessment concludes that rain falling onto the panels would

run off directly onto the ground beneath the panels which would partly infiltrate into the ground or run off into the nearest watercourse.

The Environment Agency has no objection to the proposal subject to the following condition being attached to any consent:

"The development approved by this permission shall include swales on the downward slope of the plot to intercept any additional runoff. The swales shall be 300mm deep with 1 in 5 side slopes, be built parallel to site contours, and include check dams at suitably designed intervals such that waters are retained within the swale. Reason: To prevent an increase in surface water runoff thus ensuring there is no increase in flood risk."

A swale is to be provided along the southern boundaries of the site in order to intercept surface water run-off in the event of extreme flows and to reduce overall flow rates from the site. The applicant has confirmed that a swale can be provided on site to meet the Environment Agency's requirements. However, as at the date of this report, drawings showing the proposed swale have not yet been provided. The applicant is in the process of having the swale drawings prepared in accordance with the Environment Agency's requirements and has confirmed these will be provided before planning committee. A condition is recommended requiring the swales to be installed in accordance with the submitted details. Members will be updated on the situation with the swale drawings.

The proposal is considered to comply with Policy C013 of the Devon Structure Plan 2001-2016 Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1), Policy S11 of the Adopted Mid Devon Local Plan (Local Development Framework), Policy DM/2 of the Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission and the National Planning Policy Framework.

## **7. Glint and glare**

The design and access statement states that photovoltaic panels have a very low reflectivity level when they are compared with other surfaces such as glass or water as they are designed to capture as much sunlight as possible to convert into electricity and less than 9% of the of the total incident visible light is reflected by these panels. The development will not be visible from any major road and consultation responses have not highlighted any potential impacts on road users or aircraft from glint and glare from the development.

## **8. Environmental Impact Assessment**

The proposal has been screened for EIA and it is considered that it would be of only local impact and therefore does not require environmental assessment.

## **9. Other issues**

**Concern has been raised that the benefits of the scheme do not outweigh its harmful impacts.**

**In particular, objectors have raised the following points:**

- The scheme has no local benefit.
- The electricity generating potential (number of houses likely to be generated for) and carbon savings have been exaggerated.
- It removes productive farmland for 25 years.
- The Feed in Tariff was not intended for such schemes.
- The impact of tourism must be considered.
- The proposal will leave a legacy of industrialisation in the area.
- Alternative uses of agricultural land should only be permitted where there is an overriding need for the development in this location.
- Most of the electricity will be lost with a connection to an 11kV line.

The Companion Guide to PPS22 promotes renewable energy and states that "the successful introduction of renewables in all parts of England will involve the installation of different kinds of schemes in different contexts, from rural areas to densely populated areas". It also refers to

renewable energy offering farmers alternative sources of income.

The applicant has provided additional information with regard to the electricity generating capacity of the development and how this was calculated. They state that daylight levels in any given location are steady and predictable and can be estimated accurately. The calculation of the number of households is based on a calculation of the average yearly daylight yield, multiplied by the output capacity of the solar panels (minus expected losses, typically around 105), divided by 3,300kWh, which Ofgem states is the national average for a typical dwelling. The figure used by the applicant is purely a representative figure to put the electricity generating capacity of the site into perspective. The Companion Guide to PPS22 states that renewable energy should be measured in installed capacity and does not require Local Authorities to take into account losses that may occur within the National Grid.

The Government continues to allow its feed in tariff to be used for these types of scheme and the appropriateness of this is not a material consideration. These schemes will only continue to come forward whilst the subsidies make them profitable.

The reference to policy CO14 "alternative uses for agricultural land should only be permitted where there is an overriding need for the development at the location" relates to the conservation of agricultural land relate to the best of most productive agricultural land in Grades 1, 2 and 3a. The site is Grade 3 land is not protected by these policies. In any event, at the end of the 25 year period, the site will be restored to its current condition and no permanent loss of agricultural land will take place.

The site has very limited visibility in the landscape and is unlikely to be seen at all by road users or tourists, and only fleetingly by those using the bridleway, from which the site is likely to be only partially visible from a limited number of vantage points. Bearing in mind the very limited visibility of the site, the development is not considered to have any material impact on tourism.

One objection cites policy ENV1 "development in the countryside should only be permitted where a rural location is required, it provides economic or social benefits to the local community and it protects or enhances the landscape character, natural resources and ecological, recreational and archaeological value". This policy relates to the Blackdown Hills Area of Outstanding Natural Beauty and is not relevant to this location.

Planning policy is generally permissive of renewable energy development, except where there would be an unacceptable impact on the environment or neighbouring uses. A renewable energy provider does not need to prove there is a local need or provide benefits over and above the benefits of the production of renewable energy to help meet climate change targets. In assessing the application, it is necessary to weigh up the advantages of scheme against the potential harmful impacts.

The site is very well screened within the landscape and approximately 450 metres from the nearest unrelated dwelling. Your officers consider that the potential landscape, visual and other environmental impacts and impacts on the amenities of neighbouring uses are not significant enough to outweigh the contribution this scheme would make to renewable energy targets.

## **CONDITIONS**

1. The solar PV facility shall cease to generate electricity on or before 30 November 2037. The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management

- f. provision of boundary hoarding behind any visibility zones
- g. vehicle wheel wash facilities
- h. highway condition surveys
- i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.

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 supplemental planting to the boundary hedges detailed in the submitted Landscape Mitigation Section (paragraph 4.3) on pages 12, 13 and 14 of the Landscape and Visual Appraisal dated September 2012 and received by the Local Planning Authority on 24 September 2012 shall be carried out within 9 months of the substantial completion of the development and any trees or plants which, within a period of five years from the implementation of the scheme, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
4. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.
5. The galvanised steel cladding to the inverter/transformer housing and communications buildings shall meet in colour with either BS4800 12B25, BS4800 18B29 or BS4800 10B25. Once provided the structure shall be maintained in one of these approved colours.
6. The security fence shall not be erected until a detailed specification for the badger gates to be installed in the security fence, including the location of each badger gate, has been submitted to and approved in writing by the Local Planning Authority. Such specification shall be based on a specific badger survey and mitigation plan prepared by a qualified ecologist and shall take into account all existing badger runs on the site. The security fence shall be erected only in accordance with such approved specification and once installed the badger gates shall be so retained whilst the security fence, or any replacement security fence, is retained on site.
7. No external artificial lighting shall be installed at the site without planning permission first having been obtained.
8. All cables shall be placed underground, except at the point of connection to the electricity grid system.
9. The swales shown on drawing number [to be submitted] shall be provided within 12 months of the date of this approval or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner. Following their provision the swales shall be managed and maintained in an operational condition until the site has been decommissioned in accordance with condition 1 of this decision notice.

## **REASONS FOR CONDITIONS**

1. To reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity, highway safety and protected species in accordance Policies CO6, CO9 and TR10 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5, S6 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.

2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of highway safety to ensure that adequate on-site facilities are available for traffic attracted to the site, the efficient operation of the local road network, and to safeguard the amenities of neighbouring residents in accordance with Policies CO6 and TR10 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework).
4. To ensure that the development is adequately screened and to protect the amenity of the surrounding rural landscape, in accordance with Policies CO6 and CO7 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5, S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.
5. To safeguard the visual amenities of the area in accordance with Policy CO6 of the Devon Structure Plan 2001-2016, Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1).
6. In the interest of maintaining security of the site and affording adequate protection to protected species which use the existing hedgerows, in accordance with Policy CO9 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5, S6 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.
7. To minimise the potential for light pollution and disturbance to local amenity in accordance with Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework).
8. To safeguard the visual amenities of the area in accordance with Policy CO6 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework).
9. To prevent an increase in flooding and to provide adequate means of surface water disposal, in accordance Policy CO13 of the Devon Structure Plan 2001-2016, Policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5 and S11 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.

#### **INFORMATIVE NOTE**

1. With regard to safeguarding of protected species; the developer is advised that the granting of this planning permission does not absolve the developer from complying with the relevant law, including obtaining and complying with the terms and conditions of any licences required as described in Part IVB of the Circular 06/2005.

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

Subject to conditions, the proposed development is considered acceptable with regard to its design and siting, visual and landscape impacts, archaeology and wildlife, highway safety, flooding and drainage and the residential amenities of nearby occupiers. The contribution of the scheme to renewable energy targets on land that is not considered to be the best and most versatile agricultural land, is considered to outweigh any limited harm that may arise as a result of the development, as conditioned. On balance, it is considered that the development would accord with Policies CO1, CO6,



CO8, CO10, CO12, CO13 and TR10 of the Devon Structure Plan 2001-2016, Policies S5, S6, S11, ENV7 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework), Policies COR2, COR5, COR9, COR11 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM/1, DM/5 and DM/28 of the Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission and the National Planning Policy Framework.



PLANNING COMMITTEE  
10<sup>TH</sup> FEBRUARY 2016

## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### **15/01612/FULL - VARIATION OF CONDITION (1) OF PLANNING PERMISSION 12/01306/MFUL THE SOLAR PV FACILITY SHALL CEASE TO GENERATE ELECTRICITY ON OR BEFORE 28TH MARCH 2043 - SOLAR FARM LAND AT NGR 274160 105292 ELLICOMBE FARM MORCHARD ROAD DEVON**

#### **Reason for Report:**

At the last planning committee (16<sup>th</sup> December 2015) Members resolved that the above application be deferred to allow for a briefing paper to be submitted, investigating case histories of such applications at appeal.

#### **PROPOSED DEVELOPMENT**

Both applications seek to extend the lifetime of the approved development by an additional five years.

This would permit the Ellicombe farm PV array originally granted in 2012 (12/01306/MFUL), to generate electricity until the 28<sup>th</sup> March 2043.

The Palfreys Barton PV array originally granted in 2012 (12/01376/MFUL, would be permitted to generate electricity until 30<sup>th</sup> June 1043 if consent is granted.

The Committee report **15/01612/FULL** presented on 16<sup>th</sup> December 2015 are attached as **Appendix 1**.

The Committee report **15/01613/FULL** presented on 16<sup>th</sup> December 2015 are attached as **Appendix 2**.

The Officer report **12/01306/MFUL** relating to the original grant of planning permission at Ellicombe Farm is attached as **Appendix 3**.

The Officer report **12/01376/MFUL** relating to the original grant of planning permission at Palfreys Barton is attached as **Appendix 4**.

#### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

Your officer has undertaken a detailed search for appeals relating to the extension of time period in solar PV schemes; however it has only been possible to identify one relevant appeal case study. The Planning Inspectorate's appeal reference is APP/D0840/W/15/3002662 and the decision date is 23<sup>rd</sup> June 2015.

The appeal related to a solar Photovoltaic facility on land forming part of an agricultural holding referred to Clann Farm in a largely rural area to the south west of the settlement of Bodmin in Cornwall. Planning permission was granted in 2012 for a facility comprising an array of some 6,144 panels covering an area of 4.14 Hectares. The installed capacity from the scheme was measured at approximately 1.41 MW. The development became operational on 4<sup>th</sup> November 2014.

An application to vary a planning condition to extend the length of time of operation was submitted to Cornwall Council in 2014. The permission originally granted was for 25 years and the application sought to extend this by 5 years to 30. The Council's principal concern in refusing the extension of time was in relation to an increased period during which a full and flexible access to the land for agriculture would be prevented. The application was refused by Cornwall Council on this basis and subsequently, the applicant submitted an appeal against the decision to the Planning Inspectorate.

The Inspector noted that the Council had raised no particular issues regarding landscape harm arising from the scheme, which the Inspector found to be exceptionally well contained, with only partial views available from alongside a nearby property and from a road joining onto the A30 junction.

The Inspector acknowledged that the Council had already granted planning permission for the use of the land and considered the assessment should relate solely to be the effect of the extension of time of the facility on the productive use of the agricultural land.

It was acknowledged that the National Planning Policy Framework (NPPF) seeks that the economic benefits of the best and most versatile land be taken into account. The Inspector noted that there was similar support in the Council's emerging Local Plan. The best and most versatile agricultural land is set out in the NPPF to be Grades 1, 2 and 3a.

The Inspector gave substantial weight towards the positive benefits gained from the electricity production over the additional time period and little weight was given to the Council's contention that the production during years 25 to 30 was unknown. The Inspector assumed that any failing panels would be replaced during the lifetime of the development and the array could continue to generate electricity across the additional time period.

It was also noted that there may be some reduction in electrical output, although this reduction would still be insufficient to warrant dismissal of the appeal. The Inspector also noted that permissions granting 30 year use by solar facilities are now not uncommon, and the appellant had provided some other examples, including one granted by Cornwall Council, also in 2015.

The Inspector concluded that an extension for 5 years would not compromise the agricultural productivity of the site, nor would it sufficiently alter the balance between harm and benefits to justify dismissal of the proposal to vary the condition. The Inspector granted a new planning permission without the disputed condition but substituted a new one, whilst retaining the relevant non-disputed conditions from the previous consent.

The research undertaken into the Inspectorate's approach demonstrates that the assessment of applications to extend the lifetime of generation in solar PV arrays should be limited solely to the additional period of time applied for. Therefore, where development has already been granted, the wider principle should not be subject for further scrutiny. The assessment is therefore limited solely to a balancing of the benefits against any additional level of harm arising within the extended time period.

Also in this appeal decision the Inspector noted that the granting of a 30 year use of solar PV array development is not uncommon, and it was also noted that there is evidence to support the assertion that PV arrays are capable of electricity generation beyond a 25 year period.

In the absence of any other relevant appeals, your Officer has undertaken further research into the decision making approach taken by other local planning authorities. This has confirmed an approach which is consistent with that taken by the Inspector in the above mentioned appeal. Delegated decisions from other authorities highlight that the key matter in determining whether an extension of time is acceptable or not should be related to the ability of each development to generate additional levels of renewable energy and whether this benefit would outweigh the impacts of the development over the extended timescale.

For reference, the Ellicombe Farm solar site (15/01612/FULL) is classified as a mix of Grade 3 and 5 agricultural land. The Palfreys Barton site (15/01613/FULL) is classified as predominantly Grade 3 with a small amount of Grade 5 agricultural land. When the approved time period ceases, the Palfreys Barton and Ellicombe Farm PV arrays (and all associated development) would be decommissioned and the land restored to its former use.

# APPENDIX 1

Application No. 15/01612/FULL

**Grid Ref:** 105292 : 274160

**Applicant:** GH & MG Barber

**Location:** Solar Farm at NGR 274160  
105292 Ellicombe Farm Morchard  
Road Devon

**Proposal:** Variation of condition (1) of  
planning permission  
12/01306/MFUL the solar pv  
facility shall cease to generate  
electricity on or before 28th March  
2043

**Date Valid:** 2nd October 2015



## AGENDA ITEM

### PLANNING COMMITTEE 16<sup>th</sup> December 2015

**Application No. 15/01612/FULL: Variation of condition (1) of planning permission 12/01306/MFUL the solar pv facility shall cease to generate electricity on or before 28th March 2043**

#### RECOMMENDATION

Grant permission subject to conditions.

#### PROPOSED DEVELOPMENT

This application relates to the existing Solar development at at Ellicombe Farm adjacent to the B3220 (Down St Mary to Winkleigh). The site is a single field just down from the junction with A377.

The scheme which has been built out and is now operational, covers 5.81 hectares of a single field approximately 6.56 hectares in size. From an energy generation point of the view when the application was submitted it was estimated by the applicant that the application scheme would generate **1.43 megawatts of energy**. Planning permission was granted on 13th December 2012 for a scheme set out on the following plans, and subject to the following conditions.

As stated above it is the first line of condition 1 which this current application is seeking to alter in order to extend the lifespan of the planning permission for a further period until 28<sup>th</sup> March 2043.

1. **The solar PV facility shall cease to generate electricity on or before 25th December 2037.** The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub-station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities
  - h. highway condition surveys
  - i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice, and the advice in Ecological Appraisal undertaken by Avian Ecology.
3. No development shall start until a Method of Construction Statement, to include details of:
  - (a) traffic management, and in particular at the site access to the B3220
  - (b) programme of works

- (c) parking for vehicles of site personnel, operatives and visitors
  - (d) loading and unloading of plant and materials
  - (e) storage of plant and materials
  - (f) provision of boundary hoarding/security fencing behind any visibility splays shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.
4. The additional planting as shown on the Ellicombe Farm detailed planting Plan received on the 11th September 2012 , including all planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 3 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof) , die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
  5. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.
  6. Further details of the sedum roof and external finish to the two porta cabin buildings as shown approved drawings (66)602C2 and (66)603C3 shall be submitted to approved in writing by the local planning authority prior to the commencement of this part the approved scheme. Once provided the structures shall maintained in accordance with the approved details.
  7. All cables shall be placed underground, except at the point of connection to the electricity grid system.
  8. The swale infrastructure shown on drawing SKD/175 shall be provided within 12 months of the date of this approval or within 28 days of the completion of the development hereby approved. Following their implementation the swales shall be managed and maintained in an operational condition until the site has been de-commissioned.
  9. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Following the issuing of the approved scheme, the applicant sought to discharge the relevant conditions (3,6,9) – letter dated 28/01/2013.

Following completion of the build out of the development, the developer submitted a non- material amendment (NMA) application for consideration. The scope of the amendment sought was for a revised layout showing a reduced number of panels and generating 1.2MW. Confirmation that this was acceptable as a Non-Material Amendment was issued on 29th May 2015.

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Core Strategy (Local Plan Part 1)**

COR2 - Local Distinctiveness  
 COR5 - Climate Change  
 COR9 - Access  
 COR11 - Flooding  
 COR18 - Countryside

### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM - Presumption in favour of sustainable development

DM/5 - Renewable and low carbon energy  
DM27 - Development affecting heritage assets

## **CONSULTATIONS**

HIGHWAY AUTHORITY - 13th October 2015 No comments.

ENVIRONMENT AGENCY - 15th October 2015 - No comments

HISTORIC ENVIRONMENT SERVICE - 28th October 2015 - No comments.

NATURAL ENGLAND - 20th October 2015 - Natural England currently has no comment to make on the variation of condition 1.

MORCHARD BISHOP PARISH COUNCIL - 3rd November 2015 - Support  
Down St Mary will receive some financial contribution from the solar array approved for Sharland Farm, Morchard Bishop, due to its visibility from DSM. It was felt that the same conditions should apply in reverse to the extension of the life of the array at Ellicombe Farm.

Officer response: The scope of any Community benefits arising are not a planning issue.

## **REPRESENTATIONS**

No representations received.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

This application is not seeking to change any aspect of the development as it has been built out, as stated above it is seeking to extend the lifetime of the development until 28th March 2043.

The application approved was determined on the basis of a policy framework including the Devon Structure Plan 2001 – 2016, Adopted Mid Devon Local Plan (LDF), Mid Devon Core Strategy (Local Plan 1) and Mid Devon Local Plan Part 3 (Development Management Policies: proposed submission). Whilst the DSP and MDLP are no longer part of the development plan framework, Local Plan1 and Local Plan 3 which is now adopted, remain in force. Therefore the policy basis and the relevant policy test against which to assess this current application is considered to be the same as the application submitted under LPA ref: 12/01306/MFUL.

Following the assessment of the scheme submitted under LPA ref: 12/01306/MFUL, permission was granted for the following reasons:

The proposed development, subject to the imposed conditions, is considered acceptable with regard to design and siting, its impact on the historic, visual and landscape character of the area, ecology and wildlife, highway safety, flooding and drainage, residential amenity of nearby properties and with regard to all other material considerations. The contribution of the scheme to renewable energy targets on land that is not considered to be the most versatile agricultural land is considered to outweigh any limited harm to the visual and landscape amenities of the area that may arise as a result of the development as proposed. Therefore, on balance it is considered that the development would accord Local Planning Policies CO1, CO6, CO8, CO10, CO12, CO13, CO14 and TR10 of Devon Structure Plan 2001-2016, Policies S5, S6, S11, E13, ENV3, ENV7, ENV16 of Mid Devon Local Plan (LDF), COR2, COR5, COR9, COR11 and COR18 of Mid Devon Core Strategy (Local Plan 1), Policies DM/1, DM/5, DM/28 Local Plan Part 3 and the National Planning Policy Framework.

As stated above, the scheme as built out is slightly reduced in terms of panel coverage and there are no policy objections to extending the life time of the scheme as it has built out until 28th March 2043. Furthermore it is not considered that an extension of the life of the development as it has been built out would compromise the acceptability of the development in terms reasoning as set out above.

The recommendation is therefore for approval subject to the following conditions.



## **CONDITIONS**

1. The solar PV facility shall cease to generate electricity on or before 28th March 2043. The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub-station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities
  - h. highway condition surveys
  - i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.
2. Any trees or plants planted as shown on the approved plans under LPA ref: 12/01306/MFUL which within the lifetime of the development hereby approved die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
3. The swale infrastructure shown on drawing SKD/175 and approved under LPA ref: 12/01306/MFUL shall be managed and maintained in an operational condition until the site has been de-commissioned.

## **REASONS FOR CONDITIONS**

1. To reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity, highway safety and protected species in accordance Policy COR2 and COR18 (local Plan 1) and policies DM2, DM5 and DM 27 (Local Plan 3) and Government guidance in the National Planning Policy Framework.
2. To safeguard the visual amenities of the area in accordance with Policy COR2 (Local Plan1) and policy DM2 (Local Plan 3).
3. To prevent an increase in flooding and to provide adequate means of surface water disposal in accordance with Policy COR9 of the Mid Devon Core Strategy (Local Plan)1 and the National Planning Policy Framework.

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

Subject to the conditions as recommended it is not considered that an extension of the lifetime of the development approved and built out under LPA ref: 12/01306/MFUL until 28th March 2043 will materially affect the impact of the development upon the historic, visual and landscape character of the area, any ecological and/or wildlife interest at or adjacent to the site, highway safety matters, flooding and drainage considerations and/or the residential amenity of nearby properties. On this basis the application scheme (to extend the life time of the development) remains in accordance with Policies COR2, COR5, COR9, COR11 and COR18 of Mid Devon Core Strategy (Local Plan 1) and Policies DM1, DM5, DM28 Local Plan Part 3 and the National Planning Policy Framework.

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

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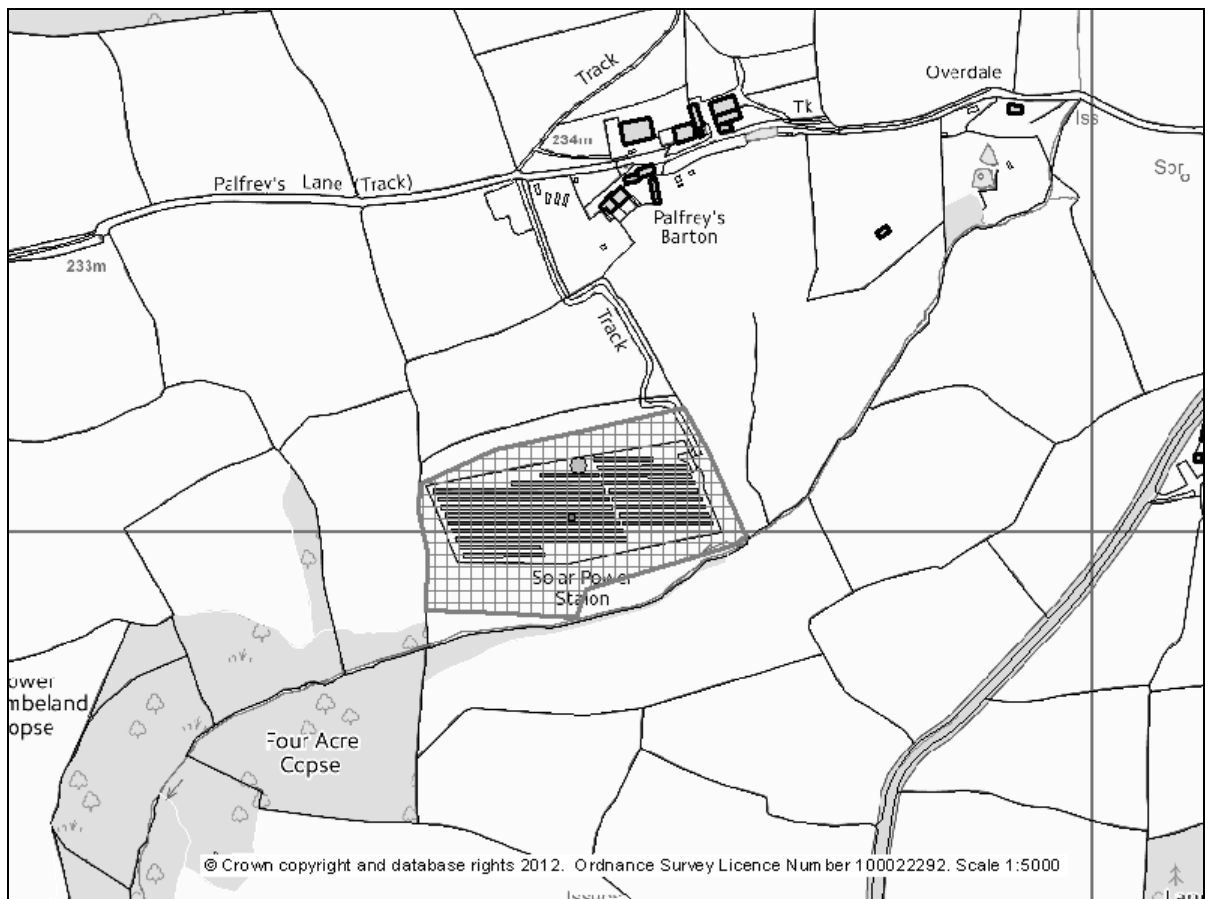
**Grid Ref:** 118012 : 296542

**Applicant:** Kalvells Limited

**Location:** Lightsource S P V 52 Ltd Solar Farm at NGR 296542 118012 (Palfreys Barton) Cove Devon

**Proposal:** Variation of Condition 1 of Planning Permission 12/01376/MFUL to read the solar PV facility shall cease to generate electricity in or before 30th June 2043

**Date Valid:** 2nd October 2015



**AGENDA ITEM**

**PLANNING COMMITTEE  
16<sup>th</sup> December 2015**

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

**15/01613/FULL - VARIATION OF CONDITION 1 OF PLANNING PERMISSION 12/01376/MFUL TO READ THE SOLAR PV FACILITY SHALL CEASE TO GENERATE ELECTRICITY IN OR BEFORE 30TH JUNE 2043 - LIGHTSOURCE S P V 52 LTD SOLAR FARM AT NGR 296542 118012 (PALFREYS BARTON) COVE DEVON**

**Application No. 15/01613/FULL**

**Variation of Condition 1 of Planning Permission 12/01376/MFUL to read the solar PV facility shall cease to generate electricity in or before 30th June 2043.**

**RECOMMENDATION**

Grant permission subject to conditions

**PROPOSED DEVELOPMENT**

This application relates to the existing solar development at Palfreys Barton Farm, Cove. The site is a single field approximately 1.5 km east of Cove and 2.8km to the south of Bampton.

The already approved scheme is operational and covers 3.55 hectares of a single agricultural field. When the application was submitted it was estimated that the scheme would generate 0.96 Megawatts of energy.

Planning permission was granted on 3<sup>rd</sup> of November 2012 for the following reason:

*Subject to conditions, the proposed development is considered acceptable with regard to its design and siting, visual and landscape impacts, archaeology and wildlife, highway safety, flooding and drainage and the residential amenities of nearby occupiers. The contribution of the scheme to renewable energy targets on land that is not considered to be the best and most versatile agricultural land, is considered to outweigh any limited harm that may arise as a result of the development, as conditioned. On balance, it is considered that the development would accord with Policies CO1, CO6, CO8, CO10, CO12, CO13 and TR10 of the Devon Structure Plan 2001-2016, Policies S5, S6, S11, ENV7 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework), Policies COR2, COR5, COR9, COR11 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM/1, DM/5 and DM/28 of the Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission and the National Planning Policy Framework.*

The originally approved application 12/01376/MFUL was determined on the basis of a policy framework including the Devon Structure Plan 2001 – 2016, the Adopted Mid Devon Local Plan (LDF), Core Strategy 2007 (Local Plan 1) and Local Plan Part 3 (Development Management Policies: proposed submission). The Devon Structure Plan and Mid Devon Local Plan are no longer part of the development plan framework, although the Core Strategy 2007 and the Local Plan Part 3 (Development Management Policies) remain in force (The LP3 was adopted in October 2013). There has therefore been a change in part of the policy basis upon which the original application was approved. However since it was considered acceptable against the still adopted Core Strategy (Local Plan Part 1) and development management policy (Local Plan Part 3), this policy change is not considered

significant, nor to lead to a different recommendation for the current application.

A Non-Material Amendment to the approved scheme was granted on 21<sup>st</sup> February for minor changes to the layout and orientation of panels, the position of access track, removal of a communications building and associated works. The amendments were granted on the basis that the works were deemed to be an improvement in terms of the visual character of the development with little overall impact upon the character of the area.

It is solely the first line of Condition 1 which the current application is seeking to alter in order to extend the lifespan of the permission to 30<sup>th</sup> June 2043.

1. **The solar PV facility shall cease to generate electricity on or before 30th June 2038.** The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub-station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities
  - h. highway condition surveys
  - i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.

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 supplemental planting to the boundary hedges detailed in the submitted Landscape Mitigation Section (paragraph 4.3) on pages 12, 13 and 14 of the Landscape and Visual Appraisal dated September 2012 and received by the Local Planning Authority on 24 September 2012 shall be carried out within 9 months of the substantial completion of the development and any trees or plants which, within a period of five years from the implementation of the scheme, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
4. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.
5. The galvanised steel cladding to the inverter/transformer housing and communications buildings shall meet in colour with either BS4800 12B25, BS4800 18B29 or BS4800

10B25. Once provided the structure shall be maintained in one of these approved colours.

6. The development hereby approved shall be carried out only in accordance with the recommendations contained in the Badger Survey dated November 2012 by URS (the Badger Survey). On the same day the security fence is erected, badger gates shall be installed in that security fence in the locations shown on drawing number 47062203/T2ECOL attached to the Badger Survey and to a specification shown on page 17 of the Badger Survey. Once installed, the badger gates shall be so retained whilst the security fence, or any replacement security fence, is retained on the site.
7. No external artificial lighting shall be installed at the site without planning permission first having been obtained.
8. All cables shall be placed underground, except at the point of connection to the electricity grid system.
9. The swales shown on the site and location plan and drawing number 2 both date stamped 26 November 2012, and further detailed in the Drainage Design report dated November 2012 prepared by URS shall be provided within 12 months of the date of this approval or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner. Following their provision, the swales shall be managed and maintained in an operational condition until the site has been decommissioned in accordance with condition 1 of this decision notice.

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

Supporting Letter – Non Technical Summary

Supporting Statement (s73 Variation of condition application)

#### **RELEVANT PLANNING HISTORY**

12/01376/MFUL Installation and operation of solar farm to generate 0.96 megawatts (site area 3.53 hectares), associated infrastructure, including PV panels, mounting, frames, inverters, transformers and fence - NON MATERIAL AMENDMENT GRANTED 21ST FEBRUARY 2013 - PERMIT

12/01376/MFUL/NMA Installation and operation of solar farm to generate 0.96 megawatts (site area 3.53 hectares), associated infrastructure, including PV panels, mounting, frames, inverters, transformers and fence - PERMIT

#### **DEVELOPMENT PLAN POLICIES**

##### **Mid Devon Core Strategy (Local Plan Part 1)**

COR2 - Local Distinctiveness

COR5 - Climate Change

COR9 - Access

COR11 - Flooding

COR18 - Countryside

##### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM1 - Presumption in favour of sustainable development

DM5 - Renewable and low carbon energy

DM27 - Development affecting heritage assets

## **CONSULTATIONS**

HIGHWAY AUTHORITY - 21<sup>st</sup> October 2015 - No comments

ENVIRONMENT AGENCY - 15<sup>th</sup> October 2015 - No comment

TIVERTON TOWN COUNCIL - 4<sup>th</sup> November 2016 - Support

HALBERTON PARISH COUNCIL - 13<sup>th</sup> November 2015 - No comments as the site is too far away

EXETER INTERNATIONAL AIRPORT - 13<sup>th</sup> October 2015

This additional information has been assessed from a safeguarding point of view and does not conflict with any safeguarding criteria or alter the initial response of 2012.

## **REPRESENTATIONS**

No representations received.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The application does not seek to change any aspect of the development from that already approved, other than to extend the lifetime of the development until 30<sup>th</sup> June 2043.

The applicant has submitted supporting evidence in the form of a Supporting Statement and a Non-Technical Summary, setting out the reasons why solar PV plants are now deemed to be capable of operation beyond the previously estimated 25 year period.

The main reasons include better maintenance practices for the PV modules with robust performance monitoring to prevent early degradation of the panels. Electrical transformers and switchgears are a necessary component of a PV array in delivering power to the grid and these components are continually improving in efficiency and longevity. The measures identified in the Non-Technical Summary will allow for extended electricity generation from the PV array at Palfreys Barton Farm. The Summary concludes that a 30 year operational life is both achievable and realistic.

The officer considers that there are no policy objections to extending the life time of the scheme as it has built out until 30<sup>th</sup> June 2043, and given that there are no other changes, it is not considered that an extension of the life of the development would compromise the acceptability of the development as a whole. The recommendation is therefore for approval subject to the following conditions.

## **CONDITIONS**

1. The solar PV facility shall cease to generate electricity on or before 30<sup>th</sup> June 2043. The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, substation, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities

- h. highway condition surveys
- i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.

2. In respect of the approved landscaping measures undertaken in accordance with application 12/01376/MFUL for any trees or plants which, within a period of two years from the date of this consent, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
3. The swales shown on the site and location plan and drawing number 2 both date stamped 26 November 2012, and further detailed in the Drainage Design report dated November 2012 prepared by URS under the approved application 12/01376/MFUL shall be managed and maintained in an operational condition until the site has been decommissioned in accordance with condition 1 of this decision notice.

## **REASONS FOR CONDITIONS**

1. To reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity, highway safety and protected species in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM1 and DM5 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
2. To ensure that the development is adequately screened and to protect the amenity of the surrounding rural landscape, in accordance with Policies CO6 and CO7 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5, S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.
3. To prevent an increase in flooding and to provide adequate means of surface water disposal, in accordance Policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and the National Planning Policy Framework.

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

The application is considered to provide valid reasons in support of the 5 year extension in the lifetime of the development, and subject to the amended conditions it is not considered that a further five years from the date approved under application 12/01376/MFUL will affect the historic, visual and landscape character of the area, any ecological or wildlife interests at or adjacent to the site, highway safety matters, flooding and drainage considerations or the residential amenity of nearby properties. On this basis the proposal is considered to remain in accordance with Policies COR2, COR5, COR9, COR11 and COR18 of Mid Devon Core Strategy (Local Plan 1) and Policies DM1, DM5, DM27 Local Plan Part 3 and the National Planning Policy Framework.

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



# APPENDIX 3

## Application No. 12/01306/MFUL

### RECOMMENDATION

Grant permission subject to conditions.

### PROPOSED DEVELOPMENT

The application proposes a Solar Farm on a single field at Elicombe Farm adjacent to the B3220 (Down St Mary to Winkleigh). The site is a single field just down from the junction with A377.

The scheme proposes that Installation and operation of solar farm to generate 1.43 megawatts, associated infrastructure, including PV panels, mounting, frames, inverters, transformers and fence. The site (5.81 ha) is part of a single field approximately 6.56 ha. The planning application scheme proposes a panel coverage of 32 % of the site area.

Access to the site is directly from the B3220 via a new access track leading down to the compound. Most of the plant associated with the use (transformer, switch board and switch gear) is to be located in a container. This container has a floor area of approx 6.1M b2.65 M, standing 2.89 M high and with two door entrances and a sedum roof. The container is shown with a grey external finish. A further container (identical dimensions) is proposed to accommodate an Inverter House. The cabins are shown on the site layout at the front of the site and to be set on a concrete base.

A security fence comprising of deer netting and timber posts standing at 1.8 metres in height. Additional planting to the existing hedgerow to the highway frontage is proposed (Southern boundary) and a swale is proposed along the northern perimeter of the development area.

The panels would be attached to mounting frames at an angle of between 25 degrees. The panels are fixed with no moving parts. The approximate standing height of the panels above ground on the high side is 2.8, and 0.1.0 metre for the low side. The supporting plans show that the mounting frames will be pile driven into the ground to a depth of approximately 1.0 metre.

### APPLICANT'S SUPPORTING INFORMATION

Site location plan, site layout – skd175 (including position of swale),  
Planting plan L0224\_04A .  
Topographical survey of the site – 11770-500-001  
Security fence system details – Drawing no:DEF  
Compound Details (66)602 C2 and (66)603C3  
Technical detail of proposed panels  
Flood Risk Assessment - PFA consulting, August 2012.  
Landscape & Visual Impact Assessment - Pegasus Environmental dated 7<sup>th</sup> August, including the planting plan 2012  
Archaeology & Cultural Heritage Assessment - by CgMs Consulting dated 12 July 2012  
Planning, Design & Access Statement - Lightsource dated August 2012  
Ecological Appraisal - by Avian Ecology dated 8<sup>th</sup> July 2012

### PLANNING HISTORY

None

### DEVELOPMENT PLAN POLICIES

#### Devon Structure Plan 2001 – 2016

CO1 - Landscape Character and Local Distinctiveness  
CO6 - Quality of New Development  
CO8 - Archaeology

CO10 - Protection of Nature Conservation Sites  
CO12 - Renewable Energy Developments  
CO13 - Protecting Water Resources/Flood Defence  
CO14 - Conserving Agricultural Land  
TR10 - Strategic Road Network

**Adopted Mid Devon Local Plan (LDF)**

S5 - General Development Requirements  
S6 - Design of New Development  
S11 - Surface Water Drainage  
ENV3 - Other Renewable Energy Sources  
ENV7 – Archaeological Investigation  
ENV16 - Protected Species  
E13 - Farm Diversification

**Mid Devon Core Strategy (Local Plan 1)**

COR2 - Local Distinctiveness  
COR5 - Climate Change  
COR9 - Access  
COR11 - Flooding  
COR18 - Countryside

**Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission**

DM/1 - Presumption in favour of sustainable development  
DM/5 - Renewable and low carbon energy  
DM28 – development affecting heritage Assets

**CONSULTATIONS**

ENVIRONMENT AGENCY - 8th November 2012 - ENVIRONMENT AGENCY POSITION.

We can confirm that the swales as shown on drawing L221/1 'Swale Locations and Typical Cross Section' would serve to manage runoff, and advise the drawing forms part of the approved plans. We also advise that condition, as requested in our letter dated the 3rd Oct 2012, be included within any subsequent decision notice should your authority grant permission.

HIGHWAY AUTHORITY - 19th September 2012 - Comments to follow  
11th October 2012

In highway terms the principle of the development proposal is acceptable. In detail, however I have a major cause for concern. The site takes its access direct from the B3220 Classified County Road. At this location the B3220 is subject only to the national speed limit. Observed traffic speeds are high. The site access has severely limited visibility from and of emerging vehicles, and meets the B3220 at an acute angle. The estimated construction traffic generation is not high and will be for a finite period, but given the severe lack of emerging visibility and the high traffic speeds on the B3220 it is considered essential that measures are provided to ensure that traffic can enter and leave the site safely. I therefore recommend that the applicant submits a Method of Construction Statement to include measures for traffic management at the site access. It is absolutely essential that no works are begun on site before the submission, and approval, of such a statement. I recommend the condition set out below is included in any grant of planning permission.

Recommendation:

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

1. No development shall start until a Method of Construction Statement, to include details of:
  - (a) traffic management, and in particular at the site access to the B3220
  - (b) programme of works
  - (c) parking for vehicles of site personnel, operatives and visitors

- (d) loading and unloading of plant and materials
- (e) storage of plant and materials
- (f) provision of boundary hoarding/security fencing behind any visibility splays

shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.

REASON: In the interests of highway safety and to ensure adequate facilities are available throughout the construction period.

ENVIRONMENT AGENCY - 25th September 2012  
Environment Agency Position.

We recommend that the application is not determined until an adequate surface water drainage strategy drawing has been produced.

We support the use of swales, however the FRA to date is a generic desk top exercise that fails to demonstrate how surface water runoff from this specific proposal will be managed so that flood risk downstream would not be exacerbated. We advise that more detail be provided prior to determination of the application. The applicant should produce a drawing showing where the swales will be positioned which forms part of the application. Swales should be 300mm deep with 1 in 4 side slopes. They should be built parallel to the site contours and include check dams at suitably designed intervals.

3rd October 2012 - Environment Agency Position.

Drawing SKD175 that shows the proposed position for a swale which we welcome. We request that the following condition be applied to the decision notice should you grant planning permission.

#### CONDITION

The development approved by this permission shall include swales on the downward slope of the plot to intercept any additional runoff. The swales shall be 300mm deep with 1 in 4 side slopes, be built parallel to site contours, (where practicable), and include check dams at suitably designed intervals such that waters are retained within the swale.

#### REASON

To prevent an increase in surface water runoff thus ensuring there is no increase in flood risk.

DOWN ST MARY PARISH COUNCIL - 6th December 2012 - Down St Mary Parish Council have held an open meeting to discuss this application. No residents attended to express any objections. The Parish Council agreed that they had no objection to the application subject to the approval of the other statutory bodies consulted. They hoped that the land would be available as agricultural land when the solar farm reached the end of its natural life or of the contract.

HIGHWAYS AGENCY - NETWORK PLANNING MANAGER - 21st September 2012 - No objection

DEVON & CORNWALL POLICE AUTHORITY - 20th September 2012 - I note the comments in relation to security fence and CCTV no actual details are given, although the design and access statement refers to there being no lighting, so I must assume that the CCTV cameras have Infra red lighting and are monitored or can be monitored if movement is detected, therefore have Pan tilt zoom facility? Could this please be confirmed.

The recommendation for solar farms are as follows:

#### Solar Farm Security

##### Risk

The South West of England has been identified as having the necessary solar power to make commercial Solar Farms a viable option. Farming energy from the sun using photovoltaic panels on a commercial scale is a new venture and will bring with it new risks and challenges to protect the location and panels from criminals. Because this is a new project there is no UK crime data to base crime prevention advice on.

Policing experience elsewhere indicates that placing large quantities of expensive photovoltaic panels in isolated locations without adequate protection will attract criminals and they will be stolen. The main risk will come from organised gangs who will use heavy duty tools and vehicles to remove large quantities of the panels. Once stolen the panels may be moved from the crime scene before re-emerging for sale.

##### Site

In view of the potential risk when considering suitable location for Solar Farms a major consideration from a police view will be how the site can be protected from unauthorised vehicle entry. Full consideration of the natural defences of location should be taken into consideration for e.g. steep gradient, Substantial hedging, Rivers etc. Where ever possible the boundary protection of the site should be an appropriate distance from the actual panels to discourage parking a vehicle against the boundary and manually lifting panels onto the vehicle.

##### Access to the Site

The solar company/site owner will require vehicular access to the site. The physical security guarding this access must be robust to sustain a high level of attack as these sites will probably be remote and lacking any natural surveillance. Consideration should be given to protecting the access road at two separate locations (1) At the actual entrance to the site and (2) set away from the specific entrance to keep authorised vehicles a substantial distance from the site.

The security of solar farms must be properly assessed by all those involved in the planning process. To be considered a truly sustainable resource within the National Grid, solar farms will need to be as secure as possible.

All planning applications should therefore include full details of the security proposals within the Design and Access Statement (as required by Department for Communities and Local Government Circular 1/2006 paragraph 87) Full details are not apparent on this application.

The security measures to be incorporated at each location will have to be considered on a site specific basis. They will obviously be determined to some degree by, for example, the existing landscape and local planning constraints etc

The basic principle of all crime prevention is to provide layers of defence to whatever is in need of protection.

In the case of Solar Farms this protection will almost certainly require both the physical element, such as fences or ditches and also the utilisation of appropriate technology such as CCTV and motion detectors.

The advice offered below covers the general crime prevention points which should be considered by any applicant.

##### Perimeter Security and Access Control

If perimeter fencing is to be used then it should be a proven security fence.

The recommendation would be to install fencing which has been tested and approved to current UK Government standards.

Fencing which meets the SEAP (Security Equipment Approval Panel) class 1-3 may be the most appropriate.

Fencing which is not of a specialist security type is likely to offer at best only token resistance to intruders. however if supplemented with movement detectors attached to the fence together with motion detectors/beams internally this could potentially be acceptable.

Planting up and alongside any fencing will be acceptable providing there is no detrimental effect upon site surveillance that is available or allow easy access over the fence by climbing trees etc..

The standard for rating bollards, blockers and gates is PAS 68:2007 and PAS 68:2010.

Landscaping techniques such as ditches and berms (bunds) may also be appropriate in some instances. To be effective in stopping vehicles these need to be designed carefully. Police are able to provide further specific advice in relation to the design of such defences upon request.

There should be a minimum number of vehicular access points onto site, ideally only one.

Clearly such access points will present the most obvious means for the criminal also and therefore will require a robust and adequate defence.

Some thought should also be given to the wider issues of access around any site. If for instance the land surrounding the site is under the same ownership can this be made more secure by improving gates etc. Again this provides layers of difficulty for the criminal to overcome.

#### Electronic Security

There is a huge range of electronic security available. For most sites it is very likely that this will play an important role.

In selecting which type of technology to employ a proper assessment on a site specific basis should be undertaken to ensure any system will be fit for purpose.

For CCTV this assessment is commonly called an Operational Requirement (OR)

An obvious example would be to establish how effective will the CCTV be at night at these locations, bearing in mind distance involved, quality of lens/equipment.

There will be little point in deploying CCTV or other defence unless it is monitored in some way or can provide an instant alert in some form and also who would then respond to this? Lighting is an issue, infra red or flood lighting?

CCTV which simply records will probably be of very limited value and basically not fit for purpose.

#### Other Options

The presence of site security personnel in some capacity should be considered including perhaps in terms of some types of response to site alarm activations

If the individual solar panels can be marked overtly this would reduce the ease with which they could be re sold/re used and thus help act as an additional deterrent.

Covert marking should also be considered.

Consultation with local police Beat managers following installation would be beneficial identifying points of access, routes to the site etc in the event of assistance being required.

I would appreciate sight of the operational requirement.

HISTORIC ENVIRONMENT SERVICE - 26th September 2012 - The proposed development lies in an area of archaeological potential, just to the north and adjacent to a putative Roman Road and in an area where prehistoric activity is known from findspots of flint tools as well as by settlement sites in the wider landscape identified through aerial photography. While the desk-based assessment undertaken of this site (CgMs report ref: WB/14211) recognises that the site may contain previously unrecorded archaeological remains associated with the known prehistoric activity in the vicinity it is not possible to know through desk-based research alone whether such remains are actually present, the quality of their survival or their significance. As such, without this information I do not regard the information submitted sufficient to enable a consideration of the impact of the proposed development upon the heritage asset.

Given the potential for survival and significance of below ground archaeological deposits associated with prehistoric activity in the vicinity and the absence of sufficient archaeological information, the Historic Environment Service 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 the Mid Devon Local Plan Policy ENV7, Devon Structure Plan Policy CO8 and paragraph 128 of the National Planning Policy Framework (2012).

The additional information required to be provided by the applicant would be the results of:

1. a geophysical survey of the area affected by the proposed development, and depending upon the results of the geophysical survey
2. a programme of archaeological evaluation to investigate any anomalies identified by the geophysical survey.

The results of this work would allow in informed and reasonable planning decision to be made.

I would recommend that the applicant or their agent contact this office to discuss the scope of works required and obtain contact details of professional archaeological consultants who would undertake these investigations. I would expect to provide the applicant with a Brief setting out the scope of the works required.

4th December 2012

I refer to the above application. Since my initial response made to you on the 25th September 2012, I have had confirmation from the applicant's archaeological consultant, CgMs, that there will be some degree of flexibility in the layout, number and foundation type of photovoltaic panels proposed for this site. This flexibility would allow any archaeological remains identified by geophysical survey to be preserved in situ by either avoiding siting of photovoltaic panels in that area or by the use of ground-mounted foundations rather than pile foundations.

In this light of this new information I would like to remove the Historic Environment Team's objection and advise, in accordance with paragraph 141 of the National Planning Policy Framework (2012) I would advise 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 applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure that an appropriate record is made of archaeological evidence that may be affected by the development'

I would envisage a suitable programme of work as taking the form of a geophysical survey of the area affected by the proposed development. The results of the survey would need to be presented in an appropriately detailed and illustrated report and would inform on the requirement for alteration of layout or foundation type for the photovoltaic arrays.

I will be happy to discuss this further with you, the applicant or their agent. We can provide the applicant with a Brief setting out the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

5th December 2012 - I refer to the above application. Since my initial response made to you on the 25th September 2012, I have had confirmation from the applicant's archaeological consultant, CgMs, that there will be some degree of flexibility in the layout, number and foundation type of photovoltaic panels proposed for this site. This flexibility would allow any archaeological remains identified by geophysical survey to be preserved in situ by either avoiding siting of photovoltaic panels in that area or by the use of ground-mounted foundations rather than pile foundations.

In this light of this new information I would like to remove the Historic Environment Team's objection and advise, in accordance with paragraph 141 of the National Planning Policy Framework (2012) I would advise 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 applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure that an appropriate record is made of archaeological evidence that may be affected by the development'

I would envisage a suitable programme of work as taking the form of a geophysical survey of the area affected by the proposed development. The results of the survey would need to be presented in an appropriately detailed and illustrated report and would inform on the requirement for alteration of layout or foundation type for the photovoltaic arrays.

I will be happy to discuss this further with you, the applicant or their agent. We can provide the applicant with a Brief setting out the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

NATURAL ENGLAND - 20th September 2012

Thank you for your consultation dated 14 September 2012 and received on 17 September 2012.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. It appears that Natural England has been consulted on this proposal to offer advice on the impact on a protected species.

Natural England's advice is as follows:

We have adopted national standing advice for protected species. As standing advice, it is a material consideration in the determination of the proposed development in this application in the same way as any individual response received from Natural England following consultation and should therefore be fully considered before a formal decision on the planning application is made.

Our standing advice sheets for individual species provide advice to planners on deciding if there is a 'reasonable likelihood' of these species being present. They also provide advice on survey and mitigation requirements.

We have not assessed the survey for badgers, barn owls and breeding birds<sup>1</sup>, water voles, widespread reptiles or white-clawed crayfish. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species.

How we used our standing advice to assess this survey and mitigation strategy

We used the flowchart on page 10 of our Standing Advice Species Sheet: Bats beginning at box (i). Working through the flowchart we reached Box (vi). Box (vi) advises the authority to accept the findings, consider promoting biodiversity enhancements for bats (eg new roosting opportunities, creation of habitat linkages or species rich feeding areas) in accordance with the NPPF and Section 40 of the NERC Act.

We used the flowchart on page 8 of our Standing Advice Species Sheet: Great crested newts

<sup>1</sup> Unless protected by Schedule 1 of the Wildlife & Countryside Act 1981 (as amended).

Please send consultations via email to: [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk)

beginning at box (i). Working through the flowchart we reached Box (iii). Box (iii) advises the authority to accept the findings and consider promoting biodiversity enhancements for great crested newts (for example creation of new water bodies and suitable terrestrial habitat) in accordance with in accordance with the NPPF and Section 40 of the NERC Act.

For future applications, or if further survey information is supplied, you should use our standing advice to decide if there is a 'reasonable likelihood' of protected species being present and whether survey and mitigation requirements have been met.

If you would like any advice or guidance on how to use our standing advice, or how we used the standing advice to reach a conclusion in this case, please contact us on the number above.

It is for the local planning authority to establish whether the proposed development is likely to offend against Article 12(1) of the Habitats Directive. If this is the case then the planning authority should consider whether the proposal would be likely to be granted a licence. Natural England is unable to provide advice on individual cases until licence applications are received since these applications generally involve a much greater level of detail than is provided in planning applications. We have however produced guidance on the high-level principles we apply when considering licence applications. It should also be noted that the advice given at this stage by Natural England is not a guarantee that we will be able to issue a licence, since this will depend on the specific detail of the scheme submitted to us as part of the licence application.

CAA - Solar PV - 21st September 2012

NATIONAL AIR TRAFFIC SERVICE - 17th September 2012 - No safeguarding objection.

LAPFORD PARISH COUNCIL - 9th October 2012 - No objections.

MORCHARD BISHOP PARISH COUNCIL - 2nd October 2012 - No comment.

COPPLESTONE PARISH COUNCIL - 4th October 2012

No objection.

## **REPRESENTATIONS**

At the time of writing 2 letters raising comments against the application have been received. One of the letters raises objections and the other in principle is supportive of the scheme but asks questions

about how the community will benefit, who will use the energy and who will receive the income (none of which are strictly planning matters – However it is noted that that the applicant has agreed to provide a community fund for the Parish of Down St Mary of £7,500).

In terms of the points raised in the letter of objection the site area is questioned in terms of how it relates to the proposed level of energy production. The issue of the visual impact from the roadside boundary is highlighted and the scope of additional landscaping is questioned in terms of how effective it would be. The height of the perimeter fence is questioned and it finally the writer claims that the impact assessment does not recognise that there are 4 separate properties on Ellicombe farm.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination this application are:**

- 1. Policy Issues**
- 2. Principal of the proposed use/development**
- 3. Landscape impact**
- 4. Visual Impact**
- 5. Impact on Biodiversity of the area**
- 6. Impact on Heritage Assets**
- 7. Highway safety and construction issues**
- 8. Other Issues**

### **1. Policy**

**RELEVANT NATIONAL PLANNING POLICY ON RENEWABLE ENERGY:**

The National Planning Policy Framework and the companion guide to PPS22 must be considered in the determination of these applications. These support the delivery of renewable energy and in particular advise that Local Planning Authorities should have a positive strategy to promote energy from renewable sources. In determining planning applications the Government requires that applications should be approved where the development's impacts are (or can be made) acceptable.

**RELEVANT REGIONAL PLANNING POLICY ON RENEWABLE ENERGY:**

Policy RE6 of the Regional Planning Guidance for the South West RPG10 on energy generation and use establishes the role of the South West region in supporting and encouraging the meeting of national targets for a 12.5 % reduction in greenhouse gas emission below 1990 levels by 2008 - 2012 and a 20% reduction (from 1990 levels) in carbon dioxide emissions by 2010 together with a minimum of 11-15% of electricity production from renewable energy sources by 2010. The policy encourages and promotes the greater use of renewable energy sources and indicates it is feasible for the region to seek an 11-15% target electricity production from renewable sources.

The draft Regional Spatial Strategy for the South West (RSS) regional target is a minimum of 509 - 611MWe installed capacity from a range of onshore renewable energy technologies by 2010 with a Devon target of 151 MWe from a range of onshore renewable electricity technologies.

The RSS also seeks to establish a 2020 regional minimum cumulative target of 850 MWE - but this is not broken down sub-regionally. Policy SD2 Climate Change sets out a target for regional reduction in greenhouse gas emissions. This is in line with national targets of 30% by 2026 (compared to 1990 levels) as part of longer term reduction by 2050.

The RSS also incorporates a 20% reduction in CO2 emissions by 2010 and a 60% reduction by 2050 and this equates to a 30% cut in CO2 emissions over the RSS period up to 2026.

The Government has made clear its intention to revoke these documents

**RELEVANT LOCAL PLANNING POLICY ON RENEWABLE ENERGY:**



Policy CO12 of the Devon Structure Plan 2001-2016 on renewable energy developments requires provision to be made for such proposals in the context of Devon's sub-regional target of 151MW of electricity production from land based renewable sources by 2010 subject to the consideration of their impact upon the qualities and special features of the landscape and upon the conditions of those living and working nearby. Due to timing, the proposal if granted would not be in a position to contribute to the 2010 target, but would contribute to longer term targets.

Policy COR5 of the Mid Devon Core Strategy on climate change is relevant to this scheme in that it seeks to deliver a contribution towards national and regional targets for the reduction of greenhouse gas emissions. Development of renewable energy capacity is supported where local impact is acceptable with particular reference to visual, nearby residents and wildlife.

#### OTHER RELEVANT PLANNING POLICY:

The National Planning Policy Framework includes a core planning principle relating to taking account of the different roles and character of different areas including recognising the intrinsic character and beauty of the countryside. It also refers to the planning system protecting and enhancing valued landscapes. In respect of highway safety, the NPPF requires safe and suitable access to the site. It goes on to state that planning permission should only be refused on transport grounds where the residual cumulative impacts of development are severe. Economic growth in rural areas is supported. This relates to all types of businesses and enterprise with a positive approach to sustainable new development.

Devon County Structure Plan 2001 - 2016 adopted 2004 :

Policy CO1 considers landscape character and local distinctiveness. It requires that the distinctive qualities and features of Devon's Landscape Character Zones should be maintained and enhanced and that policies and proposals should be informed by and be sympathetic to its landscape character and quality. Para 4.8 establishes that the maintenance and enhancement of Devon's landscape can only be effectively achieved if the distinctive qualities and characteristics can be conserved.

Policy CO6 requires that the identity, distinctive character and features of rural areas should be conserved and enhanced. In planning for new development the local planning authority should maintain and improve the quality of Devon's environment by requiring attention to good design and layout that respects the character of the site and its surroundings.

Policy CO10 requires consideration to be given to the impact of the development of wildlife and protected species and their habitats and the provision of appropriate mitigation where necessary.

Policy CO13 requires that all new development should be subject to an appropriate drainage assessment, and wherever possible appropriate sustainable drainage systems. Development should not be provided where it would lead to deterioration in water quality, quantity or natural flow, there are not existing adequate water resources, there would be a direct risk from flooding or it would be likely to increase the risk of flooding elsewhere to an unacceptable level. Additionally, the development should not be likely to have an adverse effect on nature conservation, landscape and recreation in river corridors, other water areas or any facet of the natural water environment.

Policy CO14 relates to the protection of best and most versatile agricultural land unless there is an overriding need for the development

Policy TR10 states that development proposals should not adversely affect the road network in terms of traffic and road safety, and access to the network should not detract from or conflict with the function of the route.

Mid Devon Local Plan (LDF):

Policy S5 sets out general development requirements as a series of criteria to be met. Of these the following two criterion are relevant to this application:

- iii) the operation of the site (including additional road traffic) will not be detrimental to the amenity, health or safety of nearby occupants or the wider environment through noise...;
- v) they are located without harm to the appearance or character of any affected landscape;

This also implies that proposals should maintain or enhance landscape appearance or character.

Policy S6 considers the design of new development and is also criteria based. This policy includes consideration of siting, scale and height. The criteria considered relevant to this application are:

i) respect and enhance the distinctive historic, landscape and settlement character of the locality, taking account of locally important features, vistas, panoramas, skylines, street patterns, buildings, groups of buildings, open spaces and their interrelationships;

xvi) minimise adverse impacts on the environment, and existing land uses likely to be affected.

Policy S11 relates to the need for Sustainable Urban Drainage Systems or other surface water management to ensure that surface water run-off from new development is equivalent in quantity, rate and quality to that expected from the undeveloped site.

Policy E13 encourages schemes which are considered to be farm diversification

Policy ENV16 seeks to prevent development which may have an adverse impact upon protected species and their habitats unless appropriate mitigation can be agreed

Mid Devon Core Strategy (Local Plan 1):

Policy COR2 on local distinctiveness states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through a series of requirement criterion. Those relevant are:

- a) high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places,
- b) the efficient use and conservation of natural resources of land, water and energy,
- c) the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within landscape character areas.
- d) protection of national and local biodiversity

The importance of conservation/preservation or enhancement of landscape character and appearance is therefore common to regional, county and local levels of planning policy.

Policy COR9 on access states that development and transport planning will be co-ordinated to improve accessibility for the whole community, reduce the need to travel by car and increase public transport use, cycling and walking.

Policy COR11 states that development will be guided to sustainable locations with the lowest risk of flood by applying the sequential test and locate appropriate development in areas of higher flood risk only where the benefits outweigh the risk of flooding; development should be managed to ensure that it does not increase the risk of flooding of properties elsewhere and should where possible, reduce the overall risk to life and property.

Policy COR18 considers development outside settlements and states that such proposals will be strictly controlled to those enhancing the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It goes on to state that detailed development control policies will permit agricultural and other appropriate rural uses, subject to appropriate criteria. Renewable energy proposals are in principle acceptable in rural locations under this policy.

Policy DM/1 of local plan 3 establishes the presumption in favour of sustainable development.

Policy DM/5 establishes the following assessment criteria:

The benefits of renewable and low carbon energy development will be weighed against its impact. Proposals for wind turbines, solar power installations and other forms of renewable or low carbon energy will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area, including cumulative impacts of similar developments within the parish

or adjoining parishes.

Development must consider:

- a) Landscape character and heritage assets;
- b) Environmental amenity of nearby properties in accordance with Policy DM/7;
- c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a);
- d) Biodiversity (avoiding habitat fragmentation).

Finally whilst only a draft document currently undergoing consultation Devon County Council, on behalf of the Devon Landscape Policy Group, have issued DLPG advice note no.2, which provides guidance on the Siting, Design and Assessment of Wind and Solar Developments in Devon.

## **2. Principal of The PV Array on agricultural land**

The proposal will reduce the scope of land that is available for farming on Ellicombe Farm by a single field which is 6.56 ha, although technically over half of the field would be untouched by the development. Whilst within the compound proposals would not be compatible with the continued use of the land for main stream agricultural practises the spacing between the panel will enable grass to grow. Finally planning permission is only sought for the scheme for a period of 25 years, and a condition is recommended to control the decommissioning stages of the development so that it could continue to be used for agricultural purposes post 2037.

The site is grade 3 agricultural land which slopes south to north, it is currently not used for cultivation and/or grazing purposes. The fact that it is not actively used for agricultural purposes may or may not reflect its grading, however as grade 3 land it is neither of excellent or good quality agricultural land which Policy C014 of the Devon County Structure and S9 of the Adopted Local Plan which seek to protect as those areas of greatest value for agricultural production. Policy E13 of the Mid Devon Local Plan promotes development which diversify the economic activities of farms including a broad range of uses, including, business, industrial, leisure and tourism uses outside settlement limits. Policy COR18 of the adopted Core Strategy promotes a range of acceptable uses in the open countryside, including renewable energy infrastructure.

Therefore in principal the application proposals, including the portacabin style buildings, are considered to be policy compliant, subject to the design of the scheme being considered to be of an appropriate scale and without causing any harm to the character and appearance of the affected landscape. An assessment of the scheme impacts on the range of issues that contribute to the character and appearance of the affected landscape are set out below.

## **3. Landscape Impact**

A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the application submission.

The following conclusion about the proposals are highlighted:

- The proposal would not disturb the field pattern.
- The proposal will not disturb the hedgerow structure except to create the proposed means of access, not significant in extent
- The proposal includes additional planting on the southern (HIGHWAY BOUNDARY)
- Spacing between the rows of panels will maintain a sense of a grassland environment from a habitats point of view.

The applicants LIVA states that the development would only have a slight affect on landscape and character of the site, and having considered the submissions and from observation at the site visit it is considered that the impact on the landscape character as a result of the proposals would be negligible.

## **4. Visual Impact**

The LVIA examines the visual impact of the proposals from various public viewing points and from the closest residential properties. As background the study has assessed the impact of the proposals

from the main visual receptors within a 3 Km radius. Although as stated by the comment made by local stakeholders there are four properties at Ellicombe farm, however it is not considered that this error invalidates the conclusions of the assessment, which is that there will be no or a slight visual impact in terms of how the proposals affect the nearest residential properties.

In terms of the impact from public viewing points the study considers the impact from 6 viewing points where theoretically the proposal may be visible from. The submissions include photographs demonstrating the current outlook from the identified points and how they would be affected by the application proposals. Given the site location, the existing vegetation covering and landscape structure the proposals would only be clearly visible from directly in front of the site from the B3320 (presented as an additional view). From the other viewing points the impact is either negligible and/or slight because they are distant views and/or the views of the array would be shielded by the existing vegetation.

In arriving at a conclusion it is acknowledged that notwithstanding the scope of additional planting proposed, the application scheme will change the visual amenities of the area when considered from the B3220. However the landscape will still present and read as a natural landscape that accommodates a small scale solar farm, (Ref: DLPG Advice Note 2) including two appropriately scaled portacabin style buildings to accommodate the associated plant and equipment.

Therefore it is not concluded that the visual impact of the development would justify refusing planning permission.

## **5. Impact on Wildlife**

An Ecological appraisal of the site has been conducted by the applicant. The appraisal included a desk based survey and field walk over.

The assessment conclusions assert that the proposals will not result in the loss of habitat, but should planning permission be granted the report goes on to identify a number of recommendations that should be followed through when and if the development goes ahead which the contractor will need to comply with in order to comply with other legislation.

It is noted that English Nature have not objected to the proposals but raise a number of points relating to the implementation of other legislation.

## **6. Impact on Heritage Assets**

The applicant has submitted an archaeological desk based study of the site, and the report established that the site has moderate potential to accommodate prehistoric elements, but not to such a level that the unrecorded heritage assets would present a constraint to the proposed development.

The applicant's archaeologist and the County Archaeologist have been in discussion on how best to resolve this matter, and the DCC archaeologist has recommended the following condition.

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure that an appropriate record is made of archaeological evidence that may be affected by the development'

## **7. Transport impacts and construction issues**

The proposed means of access to the site will be via A377 and the B3220.

Neither the Highways Agency, County Highways Officer and/or Public Rights of Way Officer have raised an objection to the application regards the adequacy of the access to the site, the route to the site and/or safety issues for other users of the highway. Subject to the applicant satisfying the terms of the following condition it is not considered that implementation and/or operation of the application scheme would have an unacceptable impact on the capacity and/or safety of other users of the highway.

- . No development shall start until a Method of Construction Statement, to include details of:
- (a) traffic management, and in particular at the site access to the B3220
  - (b) programme of works
  - (c) parking for vehicles of site personnel, operatives and visitors
  - (d) loading and unloading of plant and materials
  - (e) storage of plant and materials
  - (f) provision of boundary hoarding/security fencing behind any visibility splays
- shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.

REASON: In the interests of highway safety and to ensure adequate facilities are available throughout the construction period.

## **8. Other Issues:**

Flood Risk: The site is not within an area identified by the Environment Agency as being at risk of river flooding. However the provision of a solar array may increase the likelihood of more surface water runoff draining off the site than under the current situation. Accordingly, the provision of swales is necessary in order to intercept and infiltrate the runoff.

A swale is proposed to run along the northern perimeter of the site as shown on PFA consulting plan SKD175. If permission is to be granted it is recommended that the delivery of this infrastructure should be required by way of a condition.

Impact on Residential Amenity: There are a number of properties with 500 metres of the site but as stated above the views from these properties will be affected to some extent but none would have a direct clear view of the and the affected views would remain of an open landscape with PV installations. Furthermore given the separation distance it is not considered that issues relating to glint and glare from the panels would be an issue.

The Police was raised issues regarding site security and have raised this form of development as being a crime risk. This is a planning consideration. The applicants are addressing this issue through fencing and security cameras.

Height of fencing. Notwithstanding various references to fence height in the LIVA the security fence system detail plan shows it standing 1.8 metres above ground level and it is this detail that has been approved.

## **Conclusion**

The applicant has submitted a detailed package of evidence to support their proposals which is for a solar farm on Grade III agricultural land in the open countryside. The scheme covers part of a single field with solar panels, and maintains the existing perimeter hedgerow to the site. Additional planting The principal of the scheme is supported by local policy, and national policy in the NPPF, subject to the design of the scheme being considered to be of an appropriate scale and without causing any harm to the character and appearance of the affected landscape. The proposals will deliver benefits to the community at large, and will have a generating capacity of 143.5 MW of electricity which is equivalent to the energy needs of approximately 400 houses from a sustainable energy source, and as such will help achieve the Government target of producing 30% of our energy needs from renewable and sustainable sources by 2020.

The scheme design and it's impact have been tested by the applicant and the evidence base

submitted has been considered, along with the views of the local stakeholders who expressed an interest. In summary it is considered that the impacts of the proposal are acceptable when assessed against local and national policy. It is accepted that the proposals will change the visual amenities of this part of the landscape mostly within the context of distant views, with only one viewpoint from junction with B3220 (refer to supplementary view as submitted by the applicant) being moderately affected.

## CONDITIONS

1. The solar PV facility shall cease to generate electricity on or before 25th December 2037. The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management
  - f. provision of boundary hoarding behind any visibility zones
  - g. vehicle wheel wash facilities
  - h. highway condition surveys
  - i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice, and the advice in Ecological Appraisal undertaken by Avian Ecology
3. No development shall start until a Method of Construction Statement, to include details of:
  - (a) traffic management, and in particular at the site access to the B3220
  - (b) programme of works
  - (c) parking for vehicles of site personnel, operatives and visitors
  - (d) loading and unloading of plant and materials
  - (e) storage of plant and materials
  - (f) provision of boundary hoarding/security fencing behind any visibility splaysshall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.
4. The additional planting as shown on the Ellicombe Farm detailed planting Plan received on the 11th September 2012, including all planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 3 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
5. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.

6. Further details of the sedum roof and external finish to the two portacabin buildings as shown approved drawings (66)602C2 and (66)603C3 shall be submitted to approved in writing by the local planning authority prior to the commencement of this part the approved scheme. Once provided the structures shall maintained in accordancve with the approved details.
7. All cables shall be placed underground, except at the point of connection to the electricity grid system.
8. The swales shown on drawing SKD/175 shall be provided within 12 months of the date of this approval or within 28 days of the completion of the development hereby approved. Following their implementation the swales shall be managed and maintained in an operational condition until the site has been de-commissioned.
9. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority

## **REASONS FOR CONDITIONS**

1. To reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity, highway safety and protected species in accordance with Devon Structure Plan 2001-2016 Policies CO6, CO9 and TR10, Mid Devon Core Strategy (Local Plan 1) Policy COR2, Adopted Mid Devon Local Plan (LDF) Policies S5, S6 and ENV16 and government guidance in the National Planning Policy Framework.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of highway safety to ensure that adequate on-site facilities are available for traffic attracted to the site, the efficient operation of the local road network, and to safeguard the amenities of neighbouring residents in accordance with Devon Structure Plan 2001-2016 Policies CO6 and TR10, Mid Devon Core Strategy 2007 Policy COR2 and Adopted Mid Devon Local Plan (LDF) Policies S5 and S6.
4. To safeguard the visual amenities of the area in accordance with Devon Structure Plan 2001-2016 Policy CO6, Adopted Mid Devon Local Plan (LDF) Policies S5 and S6 and Mid Devon Core Strategy 2007 Policy COR2.
5. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.
6. To minimise the potential for light pollution and disturbance to local amenity in accordance with Adopted Mid Devon Local Plan (LDF) policies S5 and S6.
7. To prevent an increase in flooding and to provide adequate means of surface water disposal, in accordance with Devon Structure Plan 2001-2106 Policy CO13, Mid Devon Core Strategy 2007 Policy COR9, Adopted Mid Devon Local Plan (LDF) Policies S5 and S11 and Government guidance in Planning Policy Statement 25.
8. To prevent an increase in flooding and to provide adequate means of surface water disposal in accordance with Policy CO13 of the Devon Structure Plan 2001-2016, Policy COR9 of the Mid Devon Core Strategy (Local Plan 1), Policies S5 and S11 of the Adopted Mid Devon Local Plan (LDF) and the National Planning Policy Framework.

9. To ensure that an appropriate record is made of archaeological evidence that may be affected by the development, in accordance with Policy CO8 of the Devon Structure Plan 2001-2016, Policy ENV7 of the Adopted Mid Devon Local Plan (LDF) and the National Planning Policy Framework.

#### **INFORMATIVE NOTE**

1. With regard to safeguarding of protected species; the developer is advised that the granting of this planning permission does not absolve the developer from complying with the relevant law, including obtaining and complying with the terms and conditions of any licences required as described in Part IVB of the Circular 06/2005.

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

The proposed development, subject to the imposed conditions, is considered acceptable with regard to design and siting, its impact on the historic, visual and landscape character of the area, ecology and wildlife, highway safety, flooding and drainage, residential amenity of nearby properties and with regard to all other material considerations. The contribution of the scheme to renewable energy targets on land that is not considered to be the most versatile agricultural land is considered to outweigh any limited harm to the visual and landscape amenities of the area that may arise as a result of the development as proposed. Therefore, on balance it is considered that the development would accord Local Planning Policies CO1, CO3, CO6, CO7, CO8, CO10, CO12, CO13, CO14 and TR10 of Devon Structure Plan 2001-2016, policies S5, S6, S11, E13, ENV7, ENV16 of Mid Devon Local Plan (LDF), COR2, COR5, COR9, COR11 and COR18 of Mid Devon Core Strategy (Local Plan 1), Policies DM/1, DM/5, DM/28 Local Plan Part 3 and the National Planning Policy Framework.

#### **Statement of Positive Working**

In accordance with the requirements of Article 31 of the Town & Country Planning (Development Management Procedure) (England) Order, 2010, as amended, in determining this application, the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been appropriately resolved. This has included: pre-application and ongoing discussions.

In accordance with paragraph 69 of the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.



# APPENDIX 4

Application No. 12/01376/MFUL

Plans List No. 6

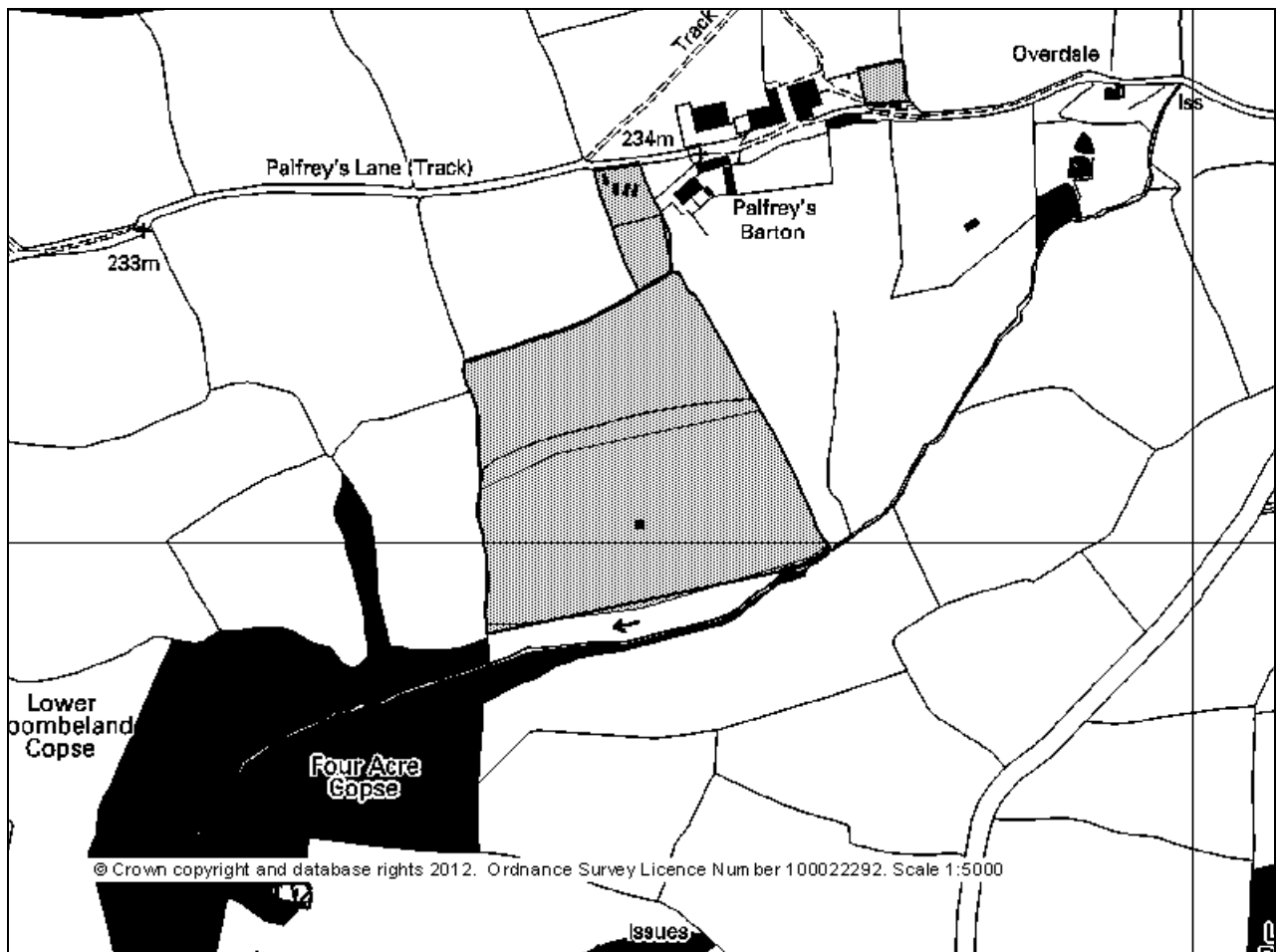
Grid Ref: 296542 : 118012

Applicant: Mr Nick Boyle

Location: Land at NGR 296542 118012 (Palfreys Barton) Cove  
Devon

Proposal: Installation and operation of solar farm to generate  
0.96 megawatts (site area 3.53 hectares), associated  
infrastructure, including PV panels, mounting,  
frames, inverters, transformers and fence

Date Valid: 25th September 2012



**Application No. 12/01376/MFUL**

**RECOMMENDATION**

**Grant permission subject to conditions.**

**PROPOSED DEVELOPMENT**

The application seeks a 25 year permission for the installation of a 0.96MW solar farm on 3.55 hectares of Grade 3 agricultural land. The site is approximately 200 metres to the south Palfreys Barton Farm and slopes down from north to south with a south facing aspect.

**Panels:** The development consists of the installation of approximately 3,920 solar photovoltaic panels measuring approximately 2m x 1m and 0.05m in depth. The panels will be attached to static mounting frames at an angle of 25 degrees. The panels and frames will have a maximum height of 2.5m. The frames will be arranged in rows running east-west across the site and will be driven into the ground to a depth of 1.5m.

**Inverter and switchgear housing:** PV panels generate direct current (DC) electricity which must be converted to alternating current (AC) electricity before it can be fed into the National Grid. The application includes a number of associated structures as follows:

- Two dark green metal clad inverter/transformer cabinets, one measuring approximately 4.65 metres x 2.61 metres and 3.15 metres high and another measuring approximately 6.15 metres x 2.61 metres and 3 metres high.
- One metal clad communications building measuring approximately 7.2 metres x 3 metres and 2.4 metres high.
- Two structures to be provided to house the distribution network operator's switchgear which disconnects the electrical circuits if there is a fault in the system. Provision of these structures by the DNO is permitted development.

All structures will be located on the eastern side of the site adjacent to the boundary hedge.

**Security fencing:** A 2 metre high deer fence with small mammal gates will be installed around the solar farm.

**Security cameras:** Motion sensor CCTV cameras will be erected around the site perimeter fence on poles approximately 4 metres in height. No lighting is proposed.

**Access:** Access will be through adjacent fields from the farm. The farm is accessed via Palfreys Lane which is made up only as far as the farm itself. Palfreys Lane is also a public bridleway.

**Hedges and trees:** No hedges or trees are to be removed and any gaps in the existing hedges will be filled with additional native planting.

**Surface water drainage:** A swale to meet Environment Agency requirements will be provided to intercept any surface water not soaking away directly into the ground around the panels.

**APPLICANT'S SUPPORTING INFORMATION**

Landscape and Visual Impact Assessment  
Ecological Assessment  
Archaeological Assessment  
Flood Risk Assessment  
Construction Management Plan.

**PLANNING HISTORY**

None.

## **DEVELOPMENT PLAN POLICIES**

Devon Structure Plan 2001 – 2016

CO1 - Landscape Character and Local Distinctiveness

CO6 - Quality of New Development

CO8 - Archaeology

CO10 - Protection of Nature Conservation Sites

CO12 - Renewable Energy Developments

CO13 - Protecting Water Resources/Flood Defence

TR10 - Strategic Road Network

## **Adopted Mid Devon Local Plan (LDF)**

S5 - General Development Requirements

S6 - Design of New Development

S11 - Surface Water Drainage

ENV7 - Archaeological Investigation

ENV16 - Protected Species

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR5 - Climate Change

COR9 - Access

COR11 - Flooding

COR18 - Countryside

## **Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission**

DM/1 - Presumption in favour of sustainable development

DM/5 - Renewable and low carbon energy

DM/28 - Development affecting heritage assets

## **CONSULTATIONS**

TIVERTON TOWN COUNCIL - 16th October 2012 - Support.

HUNTHSAM PARISH COUNCIL - BORDENGATE - 23rd October 2012 - Recommended permission be refused. The Council felt that the development would have an effect on the local amenity and that it is not in keeping with the surrounding rural area. They would also request an environmental impact statement.

HALBERTON PARISH COUNCIL - 11th October 2012 - The proposed development was not in the Parish of Halberton but the Parish Council had been consulted by Mid Devon District Council as 'consultee' under its new regime of consulting with adjoining parishes.

However as Mid Devon District Council had declined to provide the Parish Council with hard copies of the planning application and plans, the Parish Council was not in a position to make any comments.

HIGHWAY AUTHORITY - 5th October 2012 - Observations: In highway terms the development proposal is acceptable. However, I note that the route to site will be over part of Tiverton Bridleway 14. I have advised the Rights of Way officer who may wish to comment.

Recommendation: The Local Highway Authority has no objection to the proposed development.

ENVIRONMENT AGENCY - 16th October 2012 - We have no objection to the proposal subject to the following condition:

Condition - The development approved by this permission shall include swales on the downward slope of the plot to intercept any additional runoff. The swales shall be 300mm deep with 1 in 5 side slopes, be built parallel to site contours, and include check dams at suitably designed intervals such that waters are retained within the swale.

Reason - To prevent an increase in surface water runoff thus ensuring there is no increase in flood risk.

HISTORIC ENVIRONMENT SERVICE - 28th September 2012 - Assessment of the Historic Environment Record (HER) and the details submitted by the applicant suggest that the scale and situation of this development will have no archaeological impact.

DEVON & CORNWALL POLICE AUTHORITY - 1st October 2012 - Solar Farm Security

Risk

The South West of England has been identified as having the necessary solar power to make commercial Solar Farms a viable option. Farming energy from the sun using photovoltaic panels on a commercial scale is a new venture and will bring with it new risks and challenges to protect the location and panels from criminals. Because this is a new project there is no UK crime data to base crime prevention advice on.

Policing experience elsewhere indicates that placing large quantities of expensive photovoltaic panels in isolated locations without adequate protection will attract criminals and they will be stolen. The main risk will come from organised gangs who will use heavy duty tools and vehicles to remove large quantities of the panels. Once stolen the panels may be moved from the crime scene before re-emerging for sale.

Site

In view of the potential risk when considering suitable location for Solar Farms a major consideration from a police view will be how the site can be protected from unauthorised vehicle entry. Full consideration of the natural defences of location should be taken into consideration for e.g. steep gradient, substantial hedging, Rivers etc. Where ever possible the boundary protection of the site should be an appropriate distance from the actual panels to discourage parking a vehicle against the boundary and manually lifting panels onto the vehicle.

Access to the Site

The solar company/site owner will require vehicular access to the site. The physical security guarding this access must be robust to sustain a high level of attack as these sites will probably be remote and lacking any natural surveillance. Consideration should be given to protecting the access road at two separate locations (1) At the actual entrance to the site and (2) set away from the specific entrance to keep authorised vehicles a substantial distance from the site.

The security of solar farms must be properly assessed by all those involved in the planning process.

To be considered a truly sustainable resource within the National Grid, solar farms will need to be as secure as possible.

All planning applications should therefore include full details of the security proposals within the Design and Access Statement (as required by Department for Communities and Local Government Circular 1/2006 paragraph 87) The security measures to be incorporated at each location will have to be considered on a site specific basis. They will obviously be determined to some degree by, for example, the existing landscape and local planning constraints etc the basic principle of all crime prevention is to provide layers of defence to whatever is in need of protection.

In the case of Solar Farms this protection will almost certainly require both the physical element, such as fences or ditches and also the utilisation of appropriate technology such as CCTV and motion detectors.

The advice offered below covers the general crime prevention points which should be considered by any applicant.

#### Perimeter Security and Access Control

If perimeter fencing is to be used then it should be a proven security fence. The recommendation would be to install fencing which has been tested and approved to current UK Government standards.

Fencing which meets the SEAP (Security Equipment Approval Panel) class 1-3 may be the most appropriate.

Fencing which is not of a specialist security type is likely to offer at best only token resistance to intruders. however if supplemented with movement detectors attached to the fence together with motion detectors/beams internally this could potentially be acceptable.

Planting up and alongside any fencing will be acceptable providing there is no detrimental effect upon site surveillance that is available or allow easy access over the fence by climbing trees etc..

The standard for rating bollards, blockers and gates is PAS 68:2007 and PAS 68:2010.

Landscaping techniques such as ditches and berms (bunds) may also be appropriate in some instances. To be effective in stopping vehicles these need to be designed carefully. Police are able to provide further specific advice in relation to the design of such defences upon request. There should be a minimum number of vehicular access points onto site, ideally only one.

Clearly such access points will present the most obvious means for the criminal also and therefore will require a robust and adequate defence.

Some thought should also be given to the wider issues of access around any site. If for instance the land surrounding the site is under the same ownership can this be made more secure by improving gates etc. Again this provides layers of difficulty for the criminal to overcome.

#### Electronic Security

There is a huge range of electronic security available. For most sites it is very likely that this will play an important role.

In selecting which type of technology to employ a proper assessment on a site specific basis should be undertaken to ensure any system will be fit for purpose.

For CCTV this assessment is commonly called an Operational Requirement (OR) An obvious example would be to establish how effective will the CCTV be at night at these locations, bearing in mind distance involved, quality of lens/equipment.

There will be little point in deploying CCTV or other defence unless it is monitored in some way or can provide an instant alert in some form and also who would then respond to this?

CCTV which simply records will probably be of very limited value and basically not fit for purpose.

#### Other Options

The presence of site security personnel in some capacity should be considered including perhaps in terms of some types of response to site alarm activations If the individual solar panels can be marked overtly this would reduce the ease with which they could be re sold/re used and thus help act as an additional deterrent.

Covert marking should also be considered.

Consultation with local police Beat managers following installation would be beneficial identifying points of access, routes to the site etc in the event of assistance being required.

EXETER INTERNATIONAL AIRPORT - 1st October 2012 - This proposal has been examined from an Aerodrome Safeguarding aspect and does not appear to conflict with safeguarding criteria.

The Interim CAA document that gives relevant guidance on Solar Photovoltaic Systems is attached. Particular attention should be paid to section 3 regarding the Air navigation Order (ANO) 2009 articles 137, 221 and 222. If in practice pilots do experience glint/glare related annoyance from this development then the developer must take preventative measures to minimise this hazard.

Accordingly, Exeter International Airport has no safeguarding objections to this development provided there are no changes made to the current application.

Kindly note that this reply does not automatically allow further developments in this area without prior consultation with Exeter International Airport.

CAA - Solar PV - 27th September 2012 - Firstly we would ask that you consult any aeronautical safeguarding maps which may have been issued to your Planning Department. These will indicate any statutory consultation obligations. In addition to this standard recommendation, as the subject of solar energy developments is currently under widespread discussion in planning circles, I would offer the following advice.

There is in general no need to seek CAA comment when planning a solar energy installation. However, if the site in question is near an aeronautical facility, aviation stakeholders may ask for their interests to be taken into consideration. If the proposed development is within the boundary of a licensed aerodrome it will need prior CAA approval and it is the responsibility of the licence holder to arrange this. Any installation on a structure of a height exceeding 90 metres will require the comment of the CAA's Airspace Policy Directorate at CAA House, 45-59 Kingsway, London WC2B 6TE.

The CAA is currently developing a policy for solar energy installations with a view to producing a standard advice document. Worldwide progress in solar technology has prompted a number of studies by regulatory authorities and these will be fully considered as the CAA view matures. At present, while recognising that the solar energy industry is likely to expand significantly over the coming years, the CAA is aware of some potential hazards, for example (1) solar reflections may cause glare or dazzle pilots, (2) solar reflections near aerodromes may be confused with aeronautical lights, (3) installations may cause electromagnetic interference with navigation aids, and (4) panels installed vertically or on other structures may obstruct airspace.

The CAA's advice to planning authorities who are considering a solar energy application is that they should first meet any statutory consultation obligations concerning safeguarded airports or air traffic control sites or military sites. As part of the planning application the developer should ideally supply safety assurance documentation regarding the potential impact of the installation including a risk assessment addressing any aviation concerns. If the development is within the boundary of a licensed aerodrome there will be a need to supply data on the reflectivity of the panel material, to enable the implications to be assessed. Initially this data should be given to the aerodrome operator rather than the CAA. During the installation the use of cranes should be discussed with the operators of nearby aerodromes.

The CAA's advice to developers is that aerodromes within 5km of an installation may be affected, and larger airports may require consultation over a wider area. The major airports are subject to statutory consultation which is carried out by the planning authority. The smaller aerodromes rely on direct consultation from developers and therefore a consultation radius of 5km is recommended. In response to such consultation an aerodrome operator might identify problem areas such as the landing approach, but a general objection to development would be unlikely.

Any solar energy development under the Electricity Act would normally involve consultation with the CAA by the relevant approving authority. The principles outlined above would form the basis of the CAA's advice in any such case.

Pending the completion of a more comprehensive advice document the CAA has published some interim guidance on the CAA website.

NATIONAL AIR TRAFFIC SERVICE - 28th September 2012 - The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Limited has no safeguarding objections to this proposal.

Please be aware that this response applies specifically to the above consultation based on the information supplied at the time of this application. If any changes are proposed to the information supplied to NERL in regard to this application (including the installation of wind turbines) which become the basis of a full, revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

## **REPRESENTATIONS**

10 public objections summarised as follows:

1. The scheme is not associated with farming or any countryside activity and is an industrial installation which detracts from the existing environmental value of the landscape.
2. It removes productive farming land for 25 years.
3. The application is full of technical inaccuracies and misleading statements: in winter electricity demand is greater at night, a capacity factor of 5% is more accurate than the 11% claimed, and it is unlikely that this scheme could power 50 homes let alone the 288 claimed; it is not possible to equate installed capacity with household consumption; the carbon saving is an exaggeration and ignores the carbon footprint of Chinese solar panels, associated infrastructure and operating plant.
4. Most of the electricity will be lost with a connection to an 11kV line.
5. The applicant has failed to set out clearly and truthfully what the benefits will be in order for the planning officer to balance the impacts
6. The proposal does not benefit the local community.
7. Subsidies (FIT) were not intended for commercial ventures but are aggressive subsidy grabs; farm buildings could be utilised for self-use schemes
8. DECC has made it clear that solar PV is intended for development in the built environment, not in open countryside.
9. The visual impact of the security fence and associated buildings has not been assessed in the Visual Impact Assessment and is not fit for purpose; the panoramic images have been produced to diminish the view.
10. The cumulative effect on the countryside (particularly the loss of agricultural land and adverse

impact on tourism) must be considered.

11. Bampton is one of the gateways to Exmoor and should this and other developments be granted the gateway will be a series of these Staleg type structures ring-fenced with security cameras.
12. The proposal will leave a legacy of industrialisation on the area.
13. The solar panels are to be erected close to a bridle path and the road. The security fence and cameras will destroy the natural beauty of the coomb for walkers and riders. The ridge extending from Bampton Down is beautiful and cannot be disfigured by black glass panels and prison camp fencing.
14. The development will be detrimental to the Brown Hare population in the area as it will destroy their habitat.
15. CO14 of the Devon Structure Plan states that alternative uses for agricultural land should only be permitted where there is an overriding need for the development at the location: this is not the case. ENV1 states that development in the countryside should only be permitted where a rural location is required, it provides economic or social benefits to the local community and it protects or enhances the landscape character, natural resources and ecological, recreational and archaeological value. COR18 states that development in the open countryside should be strictly controlled to that which enhances its character, appearance and biodiversity.

Campaign to Protect Rural England object for the following reasons:

1. Solar farms are industrialisation of the countryside on a large scale, particularly as surrounded by high fencing and security cameras, at variance with the rich landscape of Devon's countryside and contrary to COR2 of the Mid Devon Core Strategy (LP1) and Devon Structure Plan policy CO1.
2. The site is within the landscape character area Upper farmed and wooded valley slopes in the Mid Devon Landscape Character Assessment. Such landscape is sensitive to change and the development would be incongruous in this landscape. The LCA states that solar farm should be carefully sited favouring areas such as those already spoilt by roads.
3. Visitors and local people enjoy the amenity of walking, cycling and riding through unspoilt countryside. A public bridleway runs to the north and cycle route N3 runs along the lane. The Visual Impact Assessment states that views will only be through field gates but photos are misleading as they are taken in poor weather conditions and when the hedges are in leaf. Most riders would be able to see over the 2m hedge.
4. Three residential properties could see the site from their upper storeys.
5. The access route is also a bridleway and is not wide enough to accommodate heavy traffic and riders affecting the amenity of riders.
6. The solar farm would not provide any benefit to the local community nor has a local need been referred to.
7. The proposal runs counter to the Government's intention for the FIT - it should be for micro-generation and not commercial solar farms.
8. The proposal would result in loss of agricultural land.
9. The proposal would not enhance the character, appearance and biodiversity of the countryside whilst promoting sustainable farm diversification.
10. Badger setts were recorded and fencing the site would have a detrimental impact on badgers. The site could also be attractive to otters and there are deer in the area which would not be able to access the site. There may also be an impact on foraging areas for bats.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

- 1. Policy**
- 2. Highway safety**
- 3. Visual impact**
- 4. Landscape impact**
- 5. Trees, hedges and nature conservation**
- 6. Flood risk**



- 7. Glint and glare
- 8. Environmental Impact Assessment
- 9. Other issues

## 1. Policy

### National/regional renewable energy policy

The National Planning Policy Framework and the companion guide to PPS22 support the delivery of renewable energy and in particular advise that Local Planning Authorities should have a positive strategy to promote energy from renewable sources. In determining planning applications the Government requires that applications should be approved where the development's impacts are (or can be made) acceptable.

Policy RE6 of the Regional Planning Guidance for the South West RPG10 on energy generation and use establishes the role of the South West region in supporting and encouraging the meeting of national targets for a 12.5% reduction in greenhouse gas emission below 1990 levels by 2008 – 2012 and a 20% reduction (from 1990 levels) in carbon dioxide emissions by 2010 together with a minimum of 11-15% of electricity production from renewable energy sources by 2010. The policy encourages and promotes the greater use of renewable energy sources and indicates it is feasible for the region to seek an 11-15% target electricity production from renewable sources.

The draft Regional Spatial Strategy for the South West (RSS) regional target is a minimum of 509 – 611MWe installed capacity from a range of onshore renewable energy technologies by 2010 with a Devon target of 151 MWe from a range of onshore renewable electricity technologies. The RSS also seeks to establish a 2020 regional minimum cumulative target of 850 MWE but this is not broken down sub-regionally. Policy SD2 Climate Change sets out a target for regional reduction in greenhouse gas emissions. This is in line with national targets of 30% by 2026 (compared to 1990 levels) as part of longer term reduction by 2050. The RSS also incorporates a 20% reduction in CO2 emissions by 2010 and a 60% reduction by 2050 and this equates to a 30% cut in CO2 emissions over the RSS period up to 2026.

The Government has made clear its intention to revoke these documents.

### Local renewable energy policy

Policy CO12 of the Devon Structure Plan 2001-2016 on renewable energy developments requires provision to be made for such proposals in the context of Devon's sub-regional target of 151MW of electricity production from land based renewable sources by 2010 subject to the consideration of their impact upon the qualities and special features of the landscape and upon the conditions of those living and working nearby. Due to timing, the proposal if granted would not be in a position to contribute to the 2010 target, but would contribute to longer term targets.

Policy COR5 of the Mid Devon Core Strategy on climate change is relevant to this scheme in that it seeks to deliver a contribution towards national and regional targets for the reduction of greenhouse gas emissions. Development of renewable energy capacity is supported where local impact is acceptable with particular reference to visual, nearby residents and wildlife.

Policy DM/5 of the Local Plan Part 3 Development Management Policies Proposed Submission states that proposals for wind turbines, solar power installations and other forms of renewable or low carbon energy will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area,

### Other relevant planning policy

The National Planning Policy Framework includes a core planning principle relating to taking account of the different roles and character of different areas including recognising the intrinsic character and beauty of the countryside. It also refers to the planning system protecting and enhancing valued landscapes. In respect of highway safety, the NPPF requires safe and suitable access to the site. It goes on to states that planning permission should only be refused on transport grounds where the residual cumulative impacts of development are severe. Economic growth in rural areas is supported.

This relates to all types of businesses and enterprise with a positive approach to sustainable new development.

#### **Devon County Structure Plan 2001-2016, adopted 2004**

Policy CO1 requires that the distinctive qualities and features of Devon's Landscape Character Zones should be maintained and enhanced and that policies and proposals should be informed by and be sympathetic to its landscape character and quality.

Policy CO6 requires that the identity, distinctive character and features of rural areas should be conserved and enhanced. In planning for new development the local planning authority should maintain and improve the quality of Devon's environment by requiring attention to good design and layout that respects the character of the site and its surroundings.

Policy CO8 requires the archaeological importance of sites to be understood and where appropriate protected.

Policy CO10 requires consideration to be given to the impact of the development of wildlife and protected species and their habitats and the provision of appropriate mitigation where necessary.

Policy CO13 requires that all new development should be subject to an appropriate drainage assessment, and wherever possible appropriate sustainable drainage systems. Development should not be provided where it would increase the risk of flooding to an unacceptable level.

Policy CO14 relates to the protection of best and most versatile agricultural land unless there is an overriding need for the development

Policy TR10 states that development proposals should not adversely affect the road network in terms of traffic and road safety and access to the network.

#### **Mid Devon Local Plan (LDF)**

Policy S5 sets out general development requirements as a series of criteria aimed at ensuring the development has an acceptable impact on the environment and the amenity, health or safety of nearby occupants (including any additional road traffic arising).

Policy S6 sets out criteria in respect of the design of new development and seeks to ensure that development respects and enhances the distinctive historic, landscape and settlement character of the locality, taking account of locally important features, vistas, panoramas and skylines and minimises adverse impacts on the environment and existing land uses likely to be affected.

Policy S11 relates to the need for Sustainable Urban Drainage Systems or other surface water management to ensure that surface water run-off from new development is equivalent in quantity, rate and quality to that expected from the undeveloped site.

Policy E13 encourages schemes which are considered to be farm diversification.

Policy ENV7 seeks to ensure that the archaeological importance of a site is understood and to protect sites of archaeological importance.

Policy ENV16 seeks to prevent development which may have an adverse impact upon protected species and their habitats unless appropriate mitigation can be agreed.

#### **Mid Devon Core Strategy (LP1)**

Policy COR2 on local distinctiveness states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places, the efficient use and conservation of natural resources of land, water and energy, c) the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape,

supporting opportunities identified within landscape character areas and d) protection of national and local biodiversity. The importance of conservation / preservation or enhancement of landscape character and appearance is therefore common to regional, county and local levels of planning policy.

Policy COR11 states that development will be guided to sustainable locations with the lowest risk of flood by applying the sequential test and locate appropriate development in areas of higher flood risk only where the benefits outweigh the risk of flooding; development should be managed to ensure that it does not increase the risk of flooding of properties elsewhere and should where possible, reduce the overall risk to life and property.

Policy COR18 considers development outside settlements and states that such proposals will be strictly controlled to those enhancing the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It goes on to state that detailed development control policies will permit agricultural and other appropriate rural uses, subject to appropriate criteria. Renewable energy proposals are in principle acceptable in rural locations under this policy.

#### Local Plan Part 3 Development Management Policies Proposed Submission

Policy DM/1 provides that applications should be approved wherever possible to secure development that improves the economic, social and environmental conditions in the area.

DM/28 seeks to understand the significance of heritage assets (including archaeology) and to ensure heritage assets are not harmed without appropriate justification.

National and local planning policies support renewable energy developments in principle, where visual and environmental impacts and impacts on neighbouring occupants, are acceptable.

## **2. Highway safety**

A Construction Method Statement has been submitted with the application which confirms that the access will be via Palfreys Lane which is also a public bridleway, and through the two fields to the north of the site, through the existing field gates. There are 3 distinct phases, construction, operation and decommissioning, each with different highway implications.

During the construction phase (4-6 weeks) it is anticipated that delivery of the components will require approximately 30 HGV truckloads in total, a maximum of 2-3 each day, deliveries to take place during daylight hours but outside peak traffic times.

There will only be limited traffic attracted to the site during the operational stage.

Details of the means of decommissioning the site and associated highway safety measures will be required by condition prior to decommissioning.

The Highway Authority has confirmed that in highway terms the development proposal is acceptable. However, the officer notes that the route to site will be over part of Tiverton Bridleway 14 and he has advised the Rights of Way Officer who he considered may wish to comment. No comment has been received from the Rights of Way Officer as at the date of this report. Concern has been raised that use of the lane by large vehicles is incompatible with use by horse riders. The lane provides access to Palfreys Barton farm and is already available for use by agricultural vehicles which can often be large. As deliveries are to be limited to 2-3 per day, and the Construction Method Statement confirms that no vehicle parking, loading or unloading will take place within the public highway (the public bridleway is a public highway), it is not considered that there will be an unacceptable impact on users of the bridleway during the construction period and an insignificant impact on users during the operational period.

On this basis, it is considered that the proposal complies with Policy TR10 of the Devon Structure Plan 2001-2016 Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.

### 3. Visual impact

The visual impacts of the proposal are in relation to the panels themselves, the perimeter fencing, inverter, switchgear and DNO housing, communications building, access track and to a lesser extent, the surface water drainage swale. The development will have a material impact on the appearance of the site, which is at present a pasture field. A Visual Impact Assessment has been submitted which identifies the main public viewpoints from which the development will be visible. Your officer has also visited the site and viewed it from several vantage points.

Concern has been raised with regard to the accuracy of the Landscape and Visual Impact Assessment, particularly in relation to the panoramic photography not giving an accurate reflection of the situation on the ground and also that the descriptions of the associated infrastructure are incorrect. Although the panoramic images do give the impression of a greater distance between the viewpoint and the site, they do allow a judgement to be made in respect of the visibility of the site within the landscape.

The inaccuracies with regard to the building types and site layout do not affect the overall assessment of the impact of the site within the landscape as the site has very limited visibility from public vantage points. Your officer has taken these points into account when making an assessment of the visual impact of the proposed development. Your officer has visited the site and made an independent assessment of the likely visual impact of the proposal site from the road and from the bridleway.

Views from the road to the east of the site, running north to south, are highly restricted by the topography and boundary hedges and trees, with viewpoints limited to through field gates. This is so even after the leaves have started to fall in autumn. Horse riders may be able to glimpse the development from the bridleway but it will not be prominent in views of the landscape. Views from the south and west are largely screened by woodland or rising land. The Visual Impact Assessment states that views of the site will be possible from the upper windows of three dwellings but these views will be partial and your officer does not consider that the development will have material impact on residential amenity.

#### **The Visual Impact Assessment concludes that:**

"The site is located on the slopes of a steeply incised small valley which generally results in views being restricted from locations within 200 metres of the site. Where partial views are possible these are from a restricted number of windows to the upper storeys of residential properties close to the site. Additionally, the proposals will be viewed as a small element within the wider landscape."

Overall, your officer does not consider that the development would lead to an unacceptable visual impact on the landscape, the site being visible from very few public vantage points, and then only partially or glimpsed.

The existing hedgerows surrounding the site are reasonably intact, but where gaps exist along the eastern and western boundaries that are greater than 1m in length, these are to be replanted with native species mix so as to improve the structure of the hedgerow, provide wildlife benefit and improve screening. Bearing in mind the very limited visibility of the site within the landscape, your officer considers this to be sufficient.

Concern has been raised with regard to the cumulative impact of this and similar developments in the area on the visual quality of the area. There are no other solar farms existing or with planning consent in the area and each application must be looked at on its own merits. The site has very limited visibility in the landscape and is likely to be glimpsed, if seen at all, by road users or tourists, and have limited views by those using the bridleway. Views from the bridleway are likely to be seen in the context of the existing farm complex with a number of holiday caravans, and not to be an isolated feature in the landscape.

The proposal is considered to comply with Policy CO1 of the Devon Structure Plan 2001-2016, Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1).

#### 4. Landscape impact

The site does not lie within any landscape designation, although there are blocks of ancient semi-natural woodland nearby, the nearest being to the south west of the site.

The Landscape Character Assessment identifies the landscape character area as being within the National Character Area 148 Devon Redlands, as described by Natural England in the Character Map of England (2005). The Devon Redlands Landscape Character Area is characterised by a hilly landscape of villages, hamlets, farmsteads, hedgebanks and winding lanes, cut through by steep sided valleys and wide floodplains, with large woodlands confined mainly to steep valley sides and extensive urban development, roads and railways on the lower valleys.

At County level, the majority of the site lies within the Bampton and Beer Downs Landscape Character Area with the lower half of the southern field within the Exe Valley Landscape Character Area.

The Bampton and Beer Downs LCA is described as a remote and quiet landscape with steep lanes between high hedgebanks and flat hilltops having a sense of spaciousness. Valleys are enclosed and secretive. The Exe Valley LCA is described as a deep and dramatic wooded valley, with valley sides being quiet and secretive with a strong sense of enclosure.

The Mid Devon District Landscape Character Assessment 2011 identifies the site as located within landscape character type 3A: Upper Farmed and Wooded Valley Slopes. This landscape is characterised by convex and rounded hills forming ridges with gently dipped valley slopes, which in a few places become sheer steep slopes, well-managed and dense hedgerows with medium to large-scale pasture enclosures, ridge-top hedgebanks running along the highest ground with field compartments dropping away from the ridge, isolated farms and buildings which tend to be visually prominent in the landscape, often connected by tracks and lanes, and long-distance views from one hilltop to another.

The Landscape Character Assessment states that the solar farm will bring a completely new type of development into the existing rural farmland context and one which is generally incongruous with the surrounding landscape character. However, it does on to say that the solar panels at only 3m in height would not form imposing features on the landscape. The site benefits from a high degree of seclusion because of the sloping topography and existing field boundaries.

Although the fence, security cameras and buildings are not specifically mentioned in the Landscape Character Assessment, your officer does not consider these will have a different impact on the landscape from that assessed for the solar panels. The fence is to be a deer fence consisting of timber posts and deer wire to a maximum height of 2m. The cameras will be installed at intervals around the fencing on posts at approximately 4m in height. The buildings look similar to storage containers and will be coloured dark green and located on the least visible side of the field. The buildings will have a maximum height of 3.15m so are similar in height to the solar panels themselves. In addition, the farm complex of buildings and a number of holiday caravans are elements in the landscape which with the solar farm will be viewed so it will not be viewed in isolation to other development in the landscape.

The LCA further states that:

"The solar farm would result in a temporary reduction in useable farmland for the life of the development, however, due to the relatively small scale of the field and the prevalence of agricultural land within the study area it is anticipated that this impact would be limited. Due to careful siting of the proposed development utilising existing boundary treatments and topographical low points, it is anticipated that the proposed development would have a limited impact on the landscape character of the surrounding area".

The Landscape Character Assessment concludes that the proposed development will not result in any loss or impact to landscape features or have an impact on the landscape character at a local or national level. The proposed development respects the character of the landscape by respecting the strong field pattern, utilising existing access points and using landscape features to provide screening.

Although the landscape character of the field itself will change significantly, the site is small and very well screened within the landscape and it is not considered that the development will have a material impact on the landscape character of the wider area.

The proposal is therefore considered to comply with Policy CO1 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework) in respect of its anticipated landscape impact.

## **5. Trees, hedges, nature conservation and archaeology**

The site is laid to pasture and is bounded by hedgerows. There are no trees on the site itself. All hedgerows are to be retained and supplemental planting of gaps carried out using native species. The development will not impact on these features.

The submitted ecology survey and report has identified that the surrounding hedgerows are suitable dormouse habitat. However, as no hedgerows are to be removed or severed by the scheme, the impact on any dormice potentially present on the perimeter of the site is likely to be minimal.

The report has identified badger setts within the site boundary. Additional correspondence from the ecologist states that:

"Following the preparation of the Ecological Phase 1 Habitat Survey, where badger setts were identified within the hedge to the north of the development area, Lightsource revised the layout of the solar farm to ensure that all development was at least 30m from the badger setts. Based on the final layout drawings for Palfreys Barton, no development will take place within 30 metres from badger setts identified as part of the phase 1 habitat survey. It is considered that this will effectively avoid any adverse impacts on the badger setts.

Badger gates will also be placed within the proposed fencing along all badger paths within the site. This will result in a minimum of approximately two badger gates located on each side of the rectangular solar farm area.

If a further potential badger sett is found during the construction phase, all work will stop immediately in that area and an ecologist will be contacted and called to site to assess the area."

It is recommended that the development proceeds in accordance with the ecologists recommendations and installation of the badger gates is conditioned.

The development is not considered to have material impact on any other protected species, provided the hedgerows remain intact. Concern was also raised over the impact of the development on brown hare habitat. This is a Biodiversity Action Plan species but there is no evidence that the site itself supports brown hare, and it is only a small area within the wider area of similar habitat and will continue to be accessible to small mammals via the badger gates.

The submitted archaeological investigation report has assessed the site as having low archaeological potential and does not recommend any further investigation.

On this basis, the proposal is considered to comply with Policy CO10 of the Devon Structure Plan 2001-2016, Policies S5, S6, ENV7 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework), Policy DM/28 of the Mid Devon Local Plan Part 3 (Development Management Policies) **Proposed Submission and the National Planning Policy Framework.**

## **6. Flood risk**

The site is within Flood Zone 1 which has the lowest probable risk of flooding. Sequential tests required by the NPPF direct development to the areas with the least probability of flooding (i.e. Flood Zone 1). However, surface water drainage from the panels has the potential to cause localised run-off problems. The submitted Flood Risk Assessment concludes that rain falling onto the panels would

run off directly onto the ground beneath the panels which would partly infiltrate into the ground or run off into the nearest watercourse.

The Environment Agency has no objection to the proposal subject to the following condition being attached to any consent:

"The development approved by this permission shall include swales on the downward slope of the plot to intercept any additional runoff. The swales shall be 300mm deep with 1 in 5 side slopes, be built parallel to site contours, and include check dams at suitably designed intervals such that waters are retained within the swale. Reason: To prevent an increase in surface water runoff thus ensuring there is no increase in flood risk."

A swale is to be provided along the southern boundaries of the site in order to intercept surface water run-off in the event of extreme flows and to reduce overall flow rates from the site. The applicant has confirmed that a swale can be provided on site to meet the Environment Agency's requirements. However, as at the date of this report, drawings showing the proposed swale have not yet been provided. The applicant is in the process of having the swale drawings prepared in accordance with the Environment Agency's requirements and has confirmed these will be provided before planning committee. A condition is recommended requiring the swales to be installed in accordance with the submitted details. Members will be updated on the situation with the swale drawings.

The proposal is considered to comply with Policy C013 of the Devon Structure Plan 2001-2016 Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1), Policy S11 of the Adopted Mid Devon Local Plan (Local Development Framework), Policy DM/2 of the Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission and the National Planning Policy Framework.

## **7. Glint and glare**

The design and access statement states that photovoltaic panels have a very low reflectivity level when they are compared with other surfaces such as glass or water as they are designed to capture as much sunlight as possible to convert into electricity and less than 9% of the of the total incident visible light is reflected by these panels. The development will not be visible from any major road and consultation responses have not highlighted any potential impacts on road users or aircraft from glint and glare from the development.

## **8. Environmental Impact Assessment**

The proposal has been screened for EIA and it is considered that it would be of only local impact and therefore does not require environmental assessment.

## **9. Other issues**

**Concern has been raised that the benefits of the scheme do not outweigh its harmful impacts.**

**In particular, objectors have raised the following points:**

- The scheme has no local benefit.
- The electricity generating potential (number of houses likely to be generated for) and carbon savings have been exaggerated.
- It removes productive farmland for 25 years.
- The Feed in Tariff was not intended for such schemes.
- The impact of tourism must be considered.
- The proposal will leave a legacy of industrialisation in the area.
- Alternative uses of agricultural land should only be permitted where there is an overriding need for the development in this location.
- Most of the electricity will be lost with a connection to an 11kV line.

The Companion Guide to PPS22 promotes renewable energy and states that "the successful introduction of renewables in all parts of England will involve the installation of different kinds of schemes in different contexts, from rural areas to densely populated areas". It also refers to

renewable energy offering farmers alternative sources of income.

The applicant has provided additional information with regard to the electricity generating capacity of the development and how this was calculated. They state that daylight levels in any given location are steady and predictable and can be estimated accurately. The calculation of the number of households is based on a calculation of the average yearly daylight yield, multiplied by the output capacity of the solar panels (minus expected losses, typically around 105), divided by 3,300kWh, which Ofgem states is the national average for a typical dwelling. The figure used by the applicant is purely a representative figure to put the electricity generating capacity of the site into perspective. The Companion Guide to PPS22 states that renewable energy should be measured in installed capacity and does not require Local Authorities to take into account losses that may occur within the National Grid.

The Government continues to allow its feed in tariff to be used for these types of scheme and the appropriateness of this is not a material consideration. These schemes will only continue to come forward whilst the subsidies make them profitable.

The reference to policy CO14 "alternative uses for agricultural land should only be permitted where there is an overriding need for the development at the location" relates to the conservation of agricultural land relate to the best of most productive agricultural land in Grades 1, 2 and 3a. The site is Grade 3 land is not protected by these policies. In any event, at the end of the 25 year period, the site will be restored to its current condition and no permanent loss of agricultural land will take place.

The site has very limited visibility in the landscape and is unlikely to be seen at all by road users or tourists, and only fleetingly by those using the bridleway, from which the site is likely to be only partially visible from a limited number of vantage points. Bearing in mind the very limited visibility of the site, the development is not considered to have any material impact on tourism.

One objection cites policy ENV1 "development in the countryside should only be permitted where a rural location is required, it provides economic or social benefits to the local community and it protects or enhances the landscape character, natural resources and ecological, recreational and archaeological value". This policy relates to the Blackdown Hills Area of Outstanding Natural Beauty and is not relevant to this location.

Planning policy is generally permissive of renewable energy development, except where there would be an unacceptable impact on the environment or neighbouring uses. A renewable energy provider does not need to prove there is a local need or provide benefits over and above the benefits of the production of renewable energy to help meet climate change targets. In assessing the application, it is necessary to weigh up the advantages of scheme against the potential harmful impacts.

The site is very well screened within the landscape and approximately 450 metres from the nearest unrelated dwelling. Your officers consider that the potential landscape, visual and other environmental impacts and impacts on the amenities of neighbouring uses are not significant enough to outweigh the contribution this scheme would make to renewable energy targets.

## **CONDITIONS**

1. The solar PV facility shall cease to generate electricity on or before 30 November 2037. The developer shall notify the Local Planning Authority of the permanent cessation of electricity generation in writing no later than five working days following this event. Prior to the permanent cessation of electricity generation a scheme for the decommissioning and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the following information:
  - a. details of the removal of the solar PV panels, frames, inverter modules, sub station, fencing and cabling and restoration of the land
  - b. parking of vehicles for site personnel operatives and visitors
  - c. loading and unloading of plant and materials
  - d. storage of plant and materials
  - e. programme of works including measures for traffic management



- f. provision of boundary hoarding behind any visibility zones
- g. vehicle wheel wash facilities
- h. highway condition surveys
- i. extended Phase 1 Habitat survey which covers the whole of the site and predates the date of cessation of electricity generation by no more than 12 months.

The approved decommissioning and restoration scheme shall be fully implemented within 6 months of the cessation of electricity generation.

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 supplemental planting to the boundary hedges detailed in the submitted Landscape Mitigation Section (paragraph 4.3) on pages 12, 13 and 14 of the Landscape and Visual Appraisal dated September 2012 and received by the Local Planning Authority on 24 September 2012 shall be carried out within 9 months of the substantial completion of the development and any trees or plants which, within a period of five years from the implementation of the scheme, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
4. Any temporary compounds and temporary construction roads shall be removed from the site and the land restored to its previous condition within 12 months of the date of this permission or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner.
5. The galvanised steel cladding to the inverter/transformer housing and communications buildings shall meet in colour with either BS4800 12B25, BS4800 18B29 or BS4800 10B25. Once provided the structure shall be maintained in one of these approved colours.
6. The security fence shall not be erected until a detailed specification for the badger gates to be installed in the security fence, including the location of each badger gate, has been submitted to and approved in writing by the Local Planning Authority. Such specification shall be based on a specific badger survey and mitigation plan prepared by a qualified ecologist and shall take into account all existing badger runs on the site. The security fence shall be erected only in accordance with such approved specification and once installed the badger gates shall be so retained whilst the security fence, or any replacement security fence, is retained on site.
7. No external artificial lighting shall be installed at the site without planning permission first having been obtained.
8. All cables shall be placed underground, except at the point of connection to the electricity grid system.
9. The swales shown on drawing number [to be submitted] shall be provided within 12 months of the date of this approval or within 28 days of the completion of the construction of the solar PV array, whichever is the sooner. Following their provision the swales shall be managed and maintained in an operational condition until the site has been decommissioned in accordance with condition 1 of this decision notice.

## **REASONS FOR CONDITIONS**

1. To reflect the temporary nature of the proposal and to achieve restoration of the site in the interests of visual amenity, highway safety and protected species in accordance Policies CO6, CO9 and TR10 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5, S6 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.

2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of highway safety to ensure that adequate on-site facilities are available for traffic attracted to the site, the efficient operation of the local road network, and to safeguard the amenities of neighbouring residents in accordance with Policies CO6 and TR10 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework).
4. To ensure that the development is adequately screened and to protect the amenity of the surrounding rural landscape, in accordance with Policies CO6 and CO7 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5, S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.
5. To safeguard the visual amenities of the area in accordance with Policy CO6 of the Devon Structure Plan 2001-2016, Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework) and Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1).
6. In the interest of maintaining security of the site and affording adequate protection to protected species which use the existing hedgerows, in accordance with Policy CO9 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5, S6 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.
7. To minimise the potential for light pollution and disturbance to local amenity in accordance with Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework).
8. To safeguard the visual amenities of the area in accordance with Policy CO6 of the Devon Structure Plan 2001-2016, Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies S5 and S6 of the Adopted Mid Devon Local Plan (Local Development Framework).
9. To prevent an increase in flooding and to provide adequate means of surface water disposal, in accordance Policy CO13 of the Devon Structure Plan 2001-2016, Policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1), Policies S5 and S11 of the Adopted Mid Devon Local Plan (Local Development Framework) and the National Planning Policy Framework.

#### **INFORMATIVE NOTE**

1. With regard to safeguarding of protected species; the developer is advised that the granting of this planning permission does not absolve the developer from complying with the relevant law, including obtaining and complying with the terms and conditions of any licences required as described in Part IVB of the Circular 06/2005.

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

Subject to conditions, the proposed development is considered acceptable with regard to its design and siting, visual and landscape impacts, archaeology and wildlife, highway safety, flooding and drainage and the residential amenities of nearby occupiers. The contribution of the scheme to renewable energy targets on land that is not considered to be the best and most versatile agricultural land, is considered to outweigh any limited harm that may arise as a result of the development, as conditioned. On balance, it is considered that the development would accord with Policies CO1, CO6,

CO8, CO10, CO12, CO13 and TR10 of the Devon Structure Plan 2001-2016, Policies S5, S6, S11, ENV7 and ENV16 of the Adopted Mid Devon Local Plan (Local Development Framework), Policies COR2, COR5, COR9, COR11 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM/1, DM/5 and DM/28 of the Mid Devon Local Plan Part 3 (Development Management Policies) Proposed Submission and the National Planning Policy Framework.



## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### PLANNING PERFORMANCE QUARTER 3 2015/16

#### RECOMMENDATION:

For information and discussion.

#### REASON FOR REPORT:

To provide the Committee with information on the performance of Planning Services for quarter 3 within the 2015-16 financial year.

#### MATTERS FOR CONSIDERATION:

Performance against targets and Planning Service staffing in the immediate future.

#### RELATIONSHIP TO CORPORATE PLAN:

Well Managed Council

**FINANCIAL IMPLICATIONS:** Planning performance has the potential for significant financial implications in the event that applications are not determined within 26 weeks or an extension of time negotiated. In that instance the planning fee is returned.

**LEGAL IMPLICATIONS:** The Government monitors planning performance in terms of speed and quality of decision making. In the event minimum standards are not met, an authority may be designated as being in special measures allowing applicants to apply for permission direct from the Planning Inspectorate and bypassing local decision making. The speed measure is the number of major applications determined within 13 weeks as measured over a 2 year period. The target of more than 40% has been met (56%), but the target is to be increased to 50%. The quality measure is the percentage of major applications determined over a two year period that have been overturned at appeal. The less than 20% target has been met (5%).

**RISK ASSESSMENT:** Financial risk as a result of fee return and the designation of planning authorities in special measures for underperformance is referred to above. These aspects are actively monitored, to allow priorities to be adjusted as required to reduce the risk.

### 1.0 PLANNING PERFORMANCE

Set out below are the Planning Service performance figures for quarter three from 1st October – 31st December 2015 together with a comparison with the target and figures from the earlier quarters in this financial year.

Performance data is published quarterly on the Council's website at <https://new.middevon.gov.uk/planning/performance-standards/>

The performance for this first quarter is set out below and expressed as a percentage unless marked otherwise and reports against a mix of Government and local performance targets.

Planning Service Performance	Target	Qu 1 2015/16	Qu 2 2015/16	Qu3 2015/16
Major applications determined within 13 weeks	60%	57%	50%	75%
Minor applications determined within 8 weeks	65%	68%	73%	74%
Other applications determined within 8 weeks	80%	91%	85%	75%

Householder applications determined in 8 weeks	85%	92%	97%	95%
Listed Building Consents determined in 8 weeks	80%	70%	67%	85%
Enforcement site visits undertaken within 15 days of complaint receipt	87%	100%	94%	89%
Delegated decisions	90%	94%	93%	94%
Applications over 13 weeks old without a decision	Less than 45 applications	25	26	36
Major applications determined within 13 weeks (over last 2 years)	More than 40%	51%	58%	56%
Determine all applications within 26 weeks or with an extension of time (per annum –Government planning guarantee)	100%	97%	96%	94%
Building Regulations Applications examined within 3 weeks	95%	70%	70%	76%
Building Regulation Full Plan applications determined in 2 months	95%	99%	98%	97%

In addition during this quarter activity within the enforcement part of the Planning Service included and can be compared against that of earlier quarters:

<b>Enforcement 2015/16</b>	<b>Qu 1</b>	<b>Qu 2</b>	<b>Qu 3</b>
Number of new enforcement cases registered	14	71	54
Number of enforcement cases closed	47	53	39
Number of committee authorisations sought	3	2	1
Number of planning contravention notices served	Data available from Qu 2	9	5
Number of breach of condition notices served	0	1	0
Number of enforcement notices served	2	1	0

The performance for quarter 3 of 2015/16 shows that in the majority of instances targets are being met or exceeded. Listed Building Consent performance during this quarter has improved, with the 80% target for applications determined within 8 weeks being exceeded. The major application target of 60% determined within 13 weeks was also exceeded within this quarter (75%), but will need to be monitored closely in the final quarter of this financial year as the two earlier quarters missed this target.

However there remain some areas of concern identified in the performance figures:

The 'other' type application performance target of more than 80% of decisions within 8 weeks was missed

Planning Service staffing continues to still not be at full strength due to the maternity leave of several senior staff. This has had knock on effects in terms of associated arrangements for staff cover and redeployment of staff into different roles. Not all posts have been backfilled.

In the publication 'Fixing the foundations: creating a more prosperous nation' as part of the summer budget 2015, the Government has indicated its intention to tighten planning performance requirements so that local authorities making 50% or fewer decisions on time or those processing minor applications too slowly are at risk of designation. The Government's planning guarantee requires that authorities determine all planning applications within 26 weeks unless an extension of time is agreed with the applicant. If not, the planning fee is returned. Within this publication the Government has also indicated its intention to significantly tighten the planning guarantee for minor applications. Planning performance continues to be closely monitored. The performance of the planning service against targets will therefore become increasingly important, requires resourcing and presents a financial risk to the authority in the event that the planning guarantee is not met.

Every effort continues to be made to maintain our charter standards of customer service and our performance levels within the eight and thirteen week government target periods. The impact of a challenging period for staffing, particularly within Development Management continues to be reflected in some of the application time taken figures. Staffing change within this team will continue throughout the financial year as a result of maternity leave and associated cover arrangements.

**Contact for Information:** Jenny Clifford, Head of Planning and Regeneration  
01884 234346

**List of Background Papers:** PS1 and PS2 returns  
'Fixing the foundations – creating a more prosperous nation' HM Treasury July 2015

**Circulation of the Report:** Cllr Richard Chesterton  
Members of Planning Committee

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