

**IMPLICATIONS  
REPORT**

**PLANNING COMMITTEE  
3<sup>rd</sup> December 2014**

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

**14/01452/MFUL - INSTALLATION OF SOLAR ENERGY FARM ON  
13.34 HA OF LAND TO GENERATE 5.5 MEGAWATTS OF ENERGY  
(REVISED SCHEME) - LAND AT NGR 299298 125070 (EAST OF  
BOWDENS LANE) SHILLINGFORD DEVON**

**Reason for Report:**

**To consider the reasons for refusal proposed by the Planning Committee at the meeting of 5 November 2014 in light of further advice from Officers.**

**RECOMMENDATION**

**Grant permission, subject to conditions**

**Relationship to Corporate Plan:**

None

**Financial Implications:**

Any appeal may require the appointment of planning consultants to assist in the defence of the reasons for refusal. The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal.

**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.

At the Planning Committee held on 5 November 2014 Members of Planning Committee resolved that they were minded to refuse the above application contrary to officer recommendation and requested a further report to consider –

1. The Committee's draft reasons for refusal, and
2. The implications of refusing the application,
3. Compliance with relevant policies.

The Committee was minded to refuse the application on the following grounds:

1. Landscape and visual impact of the proposal
2. The effect on the local economy
3. Highway impact
4. Inappropriate use of medium grade agricultural land.

## 1. The Committee's reasons for refusal

Set out below are the reasons for refusal which would appear on the planning decision notice:

1. In the opinion of the Local Planning Authority, due to the scale, design and siting of the proposed solar photovoltaic installation, the development is considered to have a significant adverse effect on the visual amenity and rural landscape character of the area, in particular when viewed from vantage points on local roads to the south and north west of the site and from the B3227 during winter months, and it has not been demonstrated that the harm could be addressed adequately by mitigation planting. The application is considered to be contrary to policies COR2 and COR5 of the Mid Devon Core Strategy (LP1), DM2 and DM5 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.
2. In the opinion of the Local Planning Authority, the increased traffic movements in Bowdens Lane during the construction period, the road being narrow and without passing places, would cause a significant danger to other road users, including to cyclists, horse-riders, pedestrians, and children using the Bowdens Lane play area, contrary to the National Planning Policy Framework.
3. In the opinion of the Local Planning Authority, due its adverse effect on visual amenity and rural landscape character, the proposed solar photovoltaic installation is considered to harm the rural economy in an area which relies on tourism and country pursuits and which forms a gateway to Exmoor National Park, contrary to the National Planning Policy Framework which seeks to support a prosperous rural economy.
4. The development would be an unacceptable development of grade 3b and 4 agricultural land and as non-brownfield land is not considered to constitute poorest quality land and as such is contrary to the National Planning Policy Framework.

## 2. The implications of refusing the application

Each reason for refusal must be clearly justified and supported by evidence to substantiate that reason. Where it would be possible to impose suitable conditions to address potential reasons for refusal, this approach should be taken. Taking each proposed reason for refusal in turn:

1. Landscape and visual impact of the proposal

The independent review of the submitted LVIA identified a number of shortcomings with the submitted LVIA, in particular that the quality of the landscape was underestimated and the photoviews were not all up to the standard expected. However, Members will note from the officers' report that both the submitted LVIA and the independent review of that LVIA

concluded that the site was an acceptable candidate for solar PV, subject to mitigation in the form of additional planting and provided the existing land cover remained substantially the same.

From the submitted LVIA, the independent review and your officers' own assessment of the site, including reference to the document "An Assessment of the Landscape Sensitivity to Onshore Wind Energy and Large Scale Photovoltaic Development in Mid Devon District", your officers concluded that there would be some harm to landscape character and to the visual amenities of the area.

An Assessment of the Landscape Sensitivity to Onshore Wind Energy and Large Scale Photovoltaic Development in Mid Devon District identifies that the landscape character type LCT 3E Lowland Plains in which the development would sit, has medium to high sensitivity to large scale solar PV development and the potential landscape character impact needs to be assessed taking into account this perceived level of sensitivity. The land immediately adjacent to the site is identified as LCT3A Upper Farmed and Wooded Valley Slopes which has high sensitivity to large scale solar. As the development would also affect this landscape character type, this also needs to be taken into consideration. Existing land cover acts to break up the visible extent of the solar PV development within the landscape and reduces the potential impact the development could have on landscape character. Your officers consider that due to the limited visibility of the site and the mitigating effect of existing land cover and proposed planting, the impact of the proposal on landscape character is not considered to be significant and to be acceptable when balanced against the benefits of the production of renewable energy.

Similarly, due to the limited visibility of the site from public vantage points in the landscape and the partial, filtered or long distance views of the site from private dwellings, the proposal is not considered by your officers to have a significant impact on the visual amenity of the area and to be acceptable when balanced against the benefits of the production of renewable energy.

Policy COR2 of the Mid Devon Core Strategy (LP1) requires development to sustain the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within landscape character areas and policy DM2 of the LP3 DMP requires development to show a clear understanding of the characteristics of the site its wider context and surrounding area and to make a positive contribution to local character. As mentioned in the officers' report, there would be some conflict with these policies. However, policy DM5 of the LP3 DMP which is the key policy for renewable energy developments, states that the benefits of renewable energy should be balanced against its impacts.

In assessing the impacts on landscape character and the visual amenity of the area, Members should assess the significance of these impacts and weigh that against the benefits of the production of renewable energy. Given that some harm to landscape character and the visual amenities of the area has been identified, it could be that Members could reasonably conclude in the balance of planning issues that this harm outweighs the benefits of the scheme.

## 2. The effect on the local economy

Your officers set out the potential impacts on the local rural economy in their committee report. The National Planning Policy Framework seeks to support a prosperous rural economy including promoting rural tourism and leisure developments and promoting diversification of agricultural and other land-based businesses. The proposed development would have limited visibility from public vantage points and is likely only to be glimpsed from

the B3227 in the winter months when travelling along this road. Little evidence has been provided that a solar PV installation would affect the rural economy in a negative way.

Without material evidence to the contrary, your officers do not consider the impact on the rural economy to be significant enough to warrant refusing the application on this basis, bearing in mind the stated benefits of the proposal.

### 3. Highway impact

The construction period will entail a large number of vehicle movements and these are described in the officers' report. Members expressed concern at the increased traffic on Bowdens Lane, a narrow single track lane, and at HGV traffic travelling through Bampton. Whilst it is not possible to prevent HGVs travelling through Bampton, the submitted documentation refers to traffic coming west from the M5. The increase in traffic would be temporary, during the construction and decommissioning periods only. The National Planning Policy Framework states that development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

Subject to the conditioning of a construction management plan, the Highway Authority has no objection to the development. Members should bear in mind that the Highway Authority would not assist the Local Planning Authority in defending a reason for refusal on highway safety grounds should the application go to appeal. Members must be able to justify refusing the application on highway safety grounds and provide evidence to back up a refusal contrary to the Highway Authority recommendation.

### 4. Inappropriate use of medium grade agricultural land

At the meeting on 5 November, Members referred to the content of the Minister's Speech referred to in Planning Practice Guidance. Planning Practice Guidance acknowledges that large scale solar farms can have a negative impact on the rural environment and seeks to focus solar on previously developed and non-agricultural land. However, it does allow for agricultural land to be used for large scale solar PV if necessary, provided it is poorer quality land and an agricultural use can continue. The Speech goes on to state that where solar farms are not on brownfield land, "you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation". The Speech is referred to in Planning Practice Guidance and is a mentioned planning consideration.

The National Planning Policy Framework defines "best and most versatile agricultural land" as land in grades 1, 2 and 3a of the Agricultural Land Classification and directs Local Planning Authorities to seek to use areas of poorer quality land in preference to that of a higher quality. Policy DM5 of the LP3 DMP clearly states that development should consider the quality and productivity of the best and most versatile agricultural land and defines this as grades 1, 2 and 3a. The land included with this application has been assessed as being grade 3b with some grade 4 which would not be in conflict with this aim. The land in question is therefore not best and most versatile, but instead a combination of moderate (3b) and poor (4). The Planning Practice Guide refers to use of poorer quality land in preference to higher quality. It does not go so far as to specify the poorest grade land (grade 5). Members would need to be able to justify a different definition of the grade of agricultural land from that identified in planning policy if they are to defend this reason for refusal at appeal as this proposed reason for refusal is not supported by Policy DM5 or guidance in the Planning Practice Guidance.

### 3. Compliance with relevant policies

Members also asked officers to consider the following policies in their assessment of the application: COR2 a), b) and c), COR5, COR11 a), b) and c), DM2 a), b), c) and e) ii), DM7 1.29, and DM22 b), c) and d) and DM29 b). Taking these in turn:

COR2: This is considered in the original committee report and also under 2. 1. above.

COR5: This policy states that the development of renewable energy capacity will be supported in locations with an acceptable local impact, including visual, on nearby residents and wildlife. These considerations were addressed in the original committee report and your officers concluded that, on balance, these impacts were acceptable. Members should also consider whether the impacts are acceptable when balances against the benefits.

COR11: The Environment Agency has confirmed it has no objection to the proposal provided it proceeds in accordance with the surface water drainage strategy outlined in the proposal. Flooding did not form one of the Members' reasons for refusal.

DM2: This is considered in the original committee report and also under 2. 1. above.

DM7: This policy relates to development that negatively impacts the quality of the environment through noise, odour, light, air, water, land and other forms of pollution. These issues are addressed in the original committee report. Pollution did not form one of the Members' reasons for refusal.

DM22: This policy relates to agricultural development. Your officers do not consider that this policy is strictly relevant to the proposal, although each of the sub-paragraphs are addressed through consideration of other policies in the original committee report.

DM29: This policy relates to the proposal in that the development has the potential to affect the setting of Exmoor National Park. However, as set out in the committee report, the site is approximately 2.8 km from Exmoor National Park and is not visible from the Park. Your officers do not consider that the development will have a significant effect on the setting of the Park. Exmoor National Park Authority was consulted on 8 September 2014 but has not responded to that consultation. Your officers have looked back through the planning history for this site and have found a consultation response from Exmoor National Park Authority in relation to the EIA screening and scoping opinion, as follows:

"9th December 2013 - Thank you for consulting with the National Park Authority on this screening and scoping opinion. The proposed site is close to the National Park but because of the nature of the landscape in this area the impact may not be as severe as with some other proposals. Providing that the planning application includes a ZVI in relation to the National Park, to help an assessment of key viewpoints and therefore potential impacts, the National Park Authority would not wish to require an Environmental Statement in this case."

Exmoor National Park Authority has been re-consulted and Members will be updated on any response.

Members also asked officers to consider the Minister's Speech by Greg Barker on 25 April 2013 which is referred to in Planning Practice Guidance. This has been considered under "Use of good quality agricultural land" above. The Speech is generally supportive of solar but recognises the concerns of communities, the loss of productive agricultural land and the over-incentivising of solar on green field land. The Minister's Speech confirms the Government's commitment to solar energy and states that the Government wants to see

more solar, but “not at any cost, not in any place and not if it rides roughshod over the views of local communities”.

The local community has objected strongly to the proposal and the concerns set out in those objections have been considered in the original committee report. The planning concerns of the community are very relevant to determining this application and must form part of the balancing exercise.

### **Conclusion:**

Members have stated that they are minded to refuse the application for the reasons given above. Your officers consider that, on balance, the scheme is acceptable, when the benefits are weighed against the harm. Members should carry out a similar balancing exercise and provide justification for each reason for refusal given if they are minded to refuse contrary to officer recommendation.

## **1.0 DESCRIPTION OF DEVELOPMENT**

1.1 The application is for the installation of a ground mounted photovoltaic solar array on approximately 13.34 hectares of agricultural land to generate up to 5.5MW of power, together with associated infrastructure.

The application site lies approximately 1.4 kilometres to the north-east of Shillingford. The site consists of 5 agricultural fields and extends to approximately 13.34 hectares. The land is currently used for grazing. The topography of the site is south facing sloping land on the northern side of a valley. The site itself is on the lower ground which has a gentler slope than the higher fields. An overhead electricity line runs to the south of the site.

The development would consist of 26,300 crystalline PV panels mounted on steel frames to a maximum height of 3.5 metres, in rows facing towards the south. The application includes 5 x inverter/transformer cabins. The inverter cabins are to measure 8.7 metres x 2.6 metres and have a maximum height of 3.2 metres and will be on a concrete plinth set into the ground. A control building measuring 5 metres x 5 metres and 4.5 metres in height would be provided adjacent to the electricity sub-station at the Bowdens Lane entrance.

There would be an access track running east/west from the Bowdens Lane entrance to the site which would be approximately 1.4 kilometres long, 3 metres wide and surfaced with aggregate.

It is intended that the security fencing would be deer fencing with a height of 2.5 metres with security cameras mounted on the fence posts. No lighting is proposed.

Additional hedge and copse planting is proposed.

Permission is sought for a temporary 25 year period, after which the land would revert to agriculture.

### **Contact for any more information**

Tina Maryan 01884 234336

### **Background Papers**

Application Files

### **File Reference**

14/01452/MFUL

### **Circulation of the Report**

Cllr Richard Chesterton

