

## Agenda Item No. 1 (14 July 2021)

Application No. 19/01679/FULL

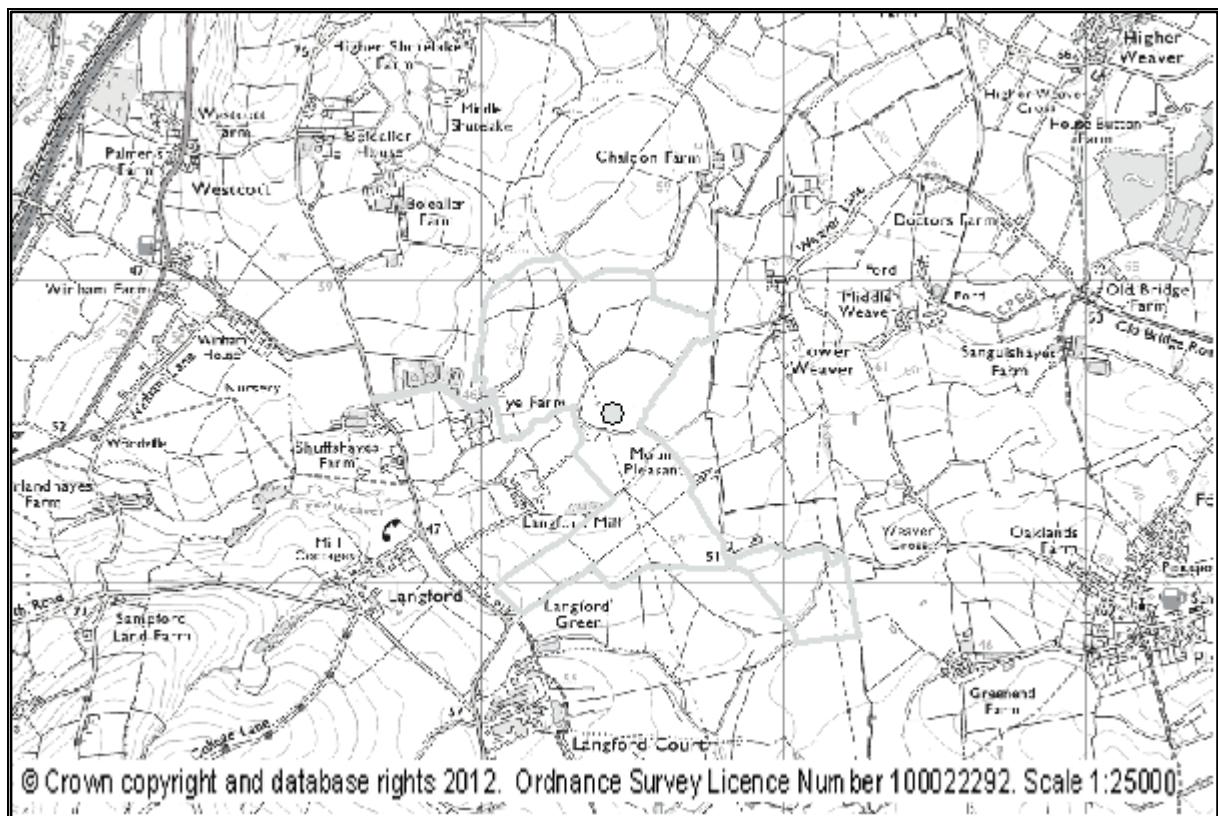
Grid Ref: 303437 : 103555

Applicant: Mr McAllister, JBM Solar Projects 2 Ltd.

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

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

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



**APPLICATION NO: 19/01679/FULL****RECOMMENDATION****PROPOSED DEVELOPMENT**

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

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

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

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

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

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

**REASON FOR REFERRAL**

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

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

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

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

## **SUPPORTING INFORMATION**

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

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

## **ORIGINAL OFFICER RECOMMENDATIONS**

Grant planning permission, subject to the conditions detailed below.

### **RECOMMENDATION:**

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

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

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

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

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

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

#### *Environment*

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

#### *Impact on Climate Change:*

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

### **Representations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Environment Impact of Application**

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

### **Noise Impact/Amenity**

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

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

- (a) They are unaware of any proposal where the noise impact of rain has been considered or deemed to be a material planning consideration. The note that the angled panels would, in any case, lessen the impact of precipitation in the immediate vicinity.
- (b) As noted by the planning officer, there is no hum from the panels. The only source of noise is the inverters, principally associated with the fans and usually only within 25 metres. The level of noise at the site boundary would be low, and the equipment does not operate during hours of darkness. Due to the separation distances the noise levels will be below a level which would represent the lowest observed adverse effects level, thus ensuring that the operation did not result in unacceptable levels of noise and thus ensuring full compliance with the requirements of the NPPF.
- (c) They are unaware of any case where this has been considered or deemed to be a material planning consideration. Given the scale, height and angled position of the panels it is considered that any audible sound of wind through them would be negligible.

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

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

### Biodiversity Update

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

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

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

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

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

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

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

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

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

## Flood Risk

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

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

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

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

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

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

With regard to Vulnerability Classification, chapter 5 Development Vulnerability and Flood Zone Classification of the revised Flood Risk Assessment details the vulnerability classification and confirms the solar farm is classed as “Essential Infrastructure”. The Environment Agency agree with this interpretation as noted in their letter dated 12th November 2020 (DC/2020/121714/01-L01) which states:

*“Based on the characteristics of the development and conversations our National Office are having with MHCLG, we consider that it should be considered in the same light as wind turbines, i.e. essential infrastructure.”*

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

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

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

#### Land Management/Shielding of Site

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

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

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

##### Access and Highways

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

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

### Heritage and Visual Impacts

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

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

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

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

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

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

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

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

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

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

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

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

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

## Planning Obligations

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

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

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

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

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

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

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

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

### **Planning Balance**

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

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

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

#### *Social and Economic Benefits*

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

#### *Environmental benefits*

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

#### *Environmental- Neutral*

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

#### *Social- Neutral*

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

### *Disbenefits*

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

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

### Other Matters

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

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

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

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

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

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

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

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

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

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

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

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

## **CONDITIONS**

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

## **SUGGESTED AMENDED CONDITIONS**

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

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

Condition 10 to read

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

Condition 21 – To read

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

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

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

#### Other Amended Conditions

##### Condition 6

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

##### Condition 11

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

##### EITHER

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

##### OR

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

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

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

#### Condition 12

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

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

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

#### Condition 17

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

### **SUGGESTED NEW PLANNING CONDITION**

#### Condition 22

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

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

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

## **Reasons for Planning Conditions**

### **Reason for Condition 4**

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

### **Reason for condition 10**

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

### **Reason for condition 21**

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

## **Other Amended Conditions**

### **Reason for condition 6**

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

### **Reason for condition 11**

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

### **Reason for Condition 12**

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

### **Reason for Condition 17**

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

### **Reasons for condition 22**

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