

AGENDA ITEM

APPLICATION NO. 19/01679/MFUL

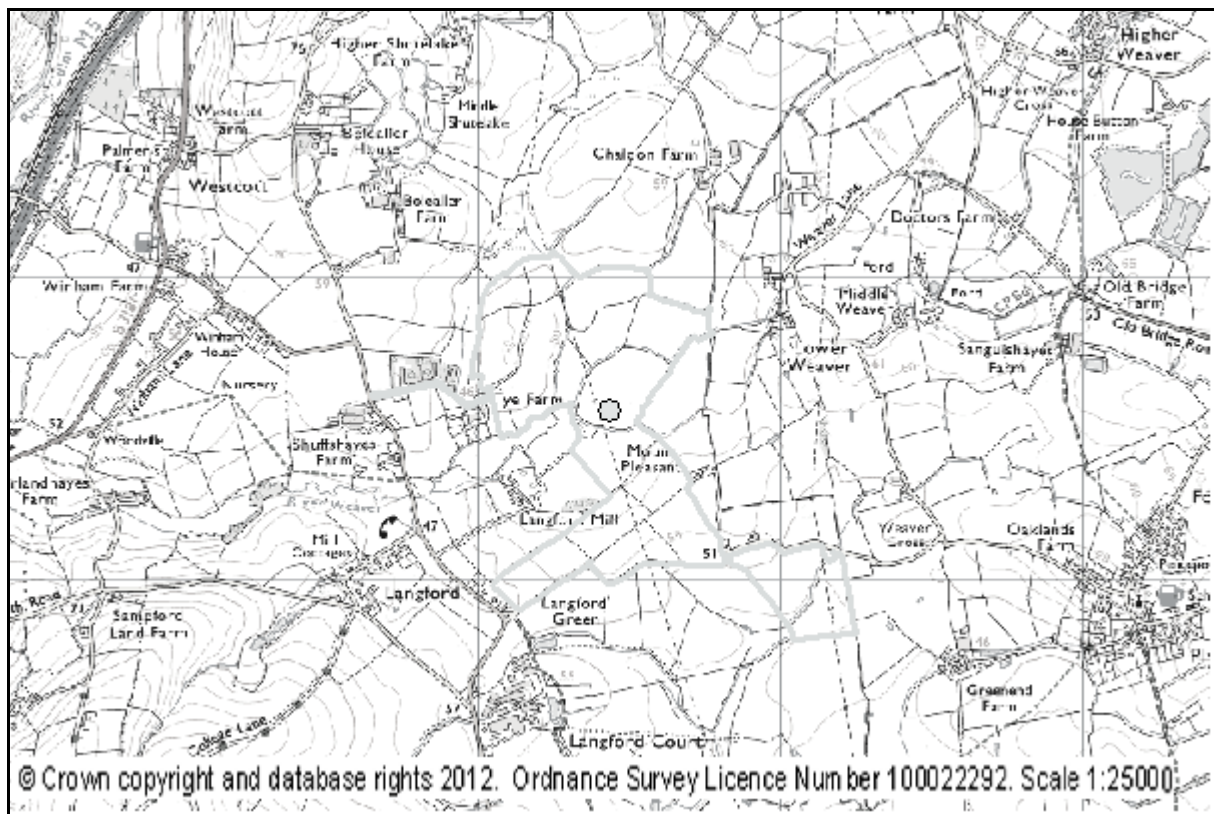
Grid Ref: 103644 : 303174

Applicant: Mr McAllister, JBM
Solar Projects 2 Ltd

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

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

Date Valid: 9th October 2019



PLANNING COMMITTEE
31ST MARCH 2021

Construction of Ground Construction of ground-mounted solar PV panels to generate up to 49.9MW (Site Area 60.78ha) and battery storage facility together with all associated works, equipment and necessary infrastructure at Land at NGR 303437 103555 East of Langford Mill and Tye Farm Langford

Cabinet Member(s): Cllr Richard Chesterton
Responsible Officer: Eileen Paterson Development Management Manager

Reason for Report: The application is for determination by the Planning Committee. The report contains the details of the application and the assessment of the application against local and national policy

RECOMMENDATION:

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

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

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

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

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

Relationship to Corporate Plan:

Environment

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

Impact on Climate Change: Section 70 (2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in

determining a planning application, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 14 of the Framework. The climate emergency shall be considered through existing planning policies and any subsequent development plans.

PROPOSED DEVELOPMENT

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

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

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

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

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

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

Environment Impact of Application

One of the reasons for deferral related to the environmental impact of the appraisal LIST THESE

Noise Impact

Question 2 of the linked spreadsheet 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, our acoustics consultants advise as follows:

(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 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.

APPLICANT'S SUPPORTING INFORMATION

Application form, plans, supporting information.

RELEVANT PLANNING HISTORY

There are some previous planning decisions at the site reflecting its status as agricultural land. Of most relevance to the application under consideration is the following:

18/01950/SCR - Request for Screening Opinion in respect of a proposed solar farm and battery storage facility – EIA not required.

DEVELOPMENT PLAN POLICIES

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework is noted as one such material consideration.

Mid Devon Local Plan 2013 – 2033

Policy S1 Sustainable development priorities
Policy S9 Environment
Policy S14 Countryside
Policy DM1 High Quality Design
Policy DM2 Renewable and low carbon energy
Policy DM18 Rural Employment development
Policy DM 25 Development Affecting heritage assets.

Cullompton Neighbourhood Plan

The National Planning Policy Framework 2019("the NPPF")
Planning Practice Guidance: Renewable and Low Carbon Energy 2015
The Mid Devon Landscape Sensitivity Assessment

CONSULTATIONS

Bradninch Parish Council

No objections. Grazing should be allowed to continue beneath the proposed panels.

Bradninch Parish Council 30th July 2020

Following receipt of new information regarding the likely detrimental impacts of the proposed development on a local business (Yarak Birds of Prey), Bradninch Town Council have reconsidered their comments and, based on the new information received, now object to this application.

(Officer comment - Yarak Birds of Prey have withdrawn the representation objecting to the application)

Clyst Hydon Parish Council

Physical size/scale - We do not believe that the site can possibly warrant such a big solar farm. Surely greenfield land available to produce food for our growing population would be more sustainable and if you allow this, what is to suggest that in future all the land surrounding won't be sold for more panels construction. This country is a small island, so surely we need all the land we can without giving the latest generations of farmers a chance to profit from previous generations hard work with sustainability. Trees should be being planted not cut down.

12 Months of chaos on unsuitable roads - It is felt that a construction of this size will bring utter chaos to the local community, not to mention unpassable roads once building commences. Our roads are unsuitable for a large increase of construction traffic. We are sure that any local Council / Highways cannot afford the resurfacing of roads as it is, let alone once this Company come through.

Proximity to highways and dwellings and solar glare - People live in these areas! The glare caused by the Solar Farm installation along the M5 causes enough issues when driving along the top road from Fagin's to Langford, so what will this bring. Also the people along Langford road/Yarak will probably no longer be able to look out onto their back gardens without a glare and heat that will be produced from this proposed installation.

Flooding - We already have issues of flooding in this area, therefore surely with the amount of panels proposed it would cause an amazing amount of run-off, not to mention everything else that will leach from the fields.

Impact to the environment - Birds already have confusion with regards to these panels elsewhere, this size will cause utter confusion. Within the plan is a skylark habitat, this should not be disturbed on any count and should be protected.

In conclusion, as a Parish Council and Community, we feel that this planning permission should be refused categorically.

Cullompton Town Council

Recommend approval subject to:

- (i) It being ensured that the land underneath the solar panels can be used for grazing.
- (ii) Having due regard for the proposed garden village and
- (iii) Being provided with details of the lifespan of the panels and what happens to them at the end of their useful life.

Cullompton Town Council 17th July 2020

RESOLVED that planning application 19/01679/MFUL) is OPPOSED in the most rigorous terms in that the proposal:

- a. is clearly unsuitable for the land on which it is to be built.
- b. is not essential infrastructure.
- c. will not generate anything like the claimed electricity.
- d. will destroy well established businesses in the immediate vicinity.

Kentisbeare Parish Council

Concerned about the scale of this proposal, which will have a detrimental visual impact on the surrounding area. The proposal will be visible from many areas due to the proposed size.

The land is prime agricultural land, and it is considered that panels are best placed on agricultural buildings where possible.

Plymtree Parish Council

1. Permission should only be granted for the stipulated duration, i.e. 40 years and only for the express purpose stated, in the application.
2. No permanent change of use should be considered. At the end of the stated period the land should automatically revert to its current status of agricultural land and all equipment suitably removed without detriment the land.
3. No additional land owned by either the current applicants or other landowners be considered for future development with respect to ground-mounted solar pv panels or similar technologies.
4. That wildlife is considered and prioritised when deciding whether to grant or deny the applicant permission.
5. This application does not set a precedent for future, similar developments.

Willand Parish Council

No observations to make.

Public Health

- Contaminated Land: No objection to this proposal. (10.10.19).
- Air Quality: No objection to this proposal. (10.10.19).
- Environmental Permitting: No objection to this proposal. (10.10.19).
- Drainage: No objection to this proposal. (10.10.19).

Noise & other nuisances: The screening mitigation detailed in the Glint and Glare assessment section 8.5 needs to be in place and at the designated height of 3m before the development can take place.

The height of the proposed screening for dwelling 50 has not been detailed in the assessment. This needs to be confirmed before a final recommendation can be made. (10.10.19).

- Housing Standards: No objection to this proposal. (10.10.19).
- Licensing: No comments. (10.10.19).
- Food Hygiene: Not applicable. (10.10.19).
- Private Water Supplies: Not applicable. (10.09.19).

Health and Safety: No objection to this proposal enforced by HSE. (10.10.19).

County Highway Authority

I have visited the site and would have no objections in principle to the proposal. The construction management plan submitted with the application is generally acceptable to the highway Authority however the highway Authority would seek access improvements as follows.

Primary access is acceptable however the visibility splay to the south should be 2.4m back along the centre line of the drive and extending to a point 43m to the centre line of the public highway to the south. In addition swept path or articulated lorries into this access should be provided and radii should be amended accordingly, the access should be in a sound bound material for the first 20.00m and drained to prevent no surface water onto the public highway.

Secondary access to A should be hard surfaced in a bound material for the first 6.0m and visibility splays of 2.4m by 33m to the nearside kerb to the west and 33.m to centre line to the east should be provided to reflect the observed speed of 25-30 mph, these splays should also apply to the new proposed access to area B and to Area C. Should the existing access at B be utilised a similar visibility is required. All accesses should be hard surfaced in a bound material for the first 6.m or greater and drained to prevent surface water entering the public highway. The Highway Authority welcomes the provision of wheel washing and road sweeping, in dry weather dust suppression should also be provided. The Highway Authority also accepts the pre, during and post construction surveys and invites the applicant to contact the highway Authority to arrange the inspections and recording of any defects.

The Highway Authority would seek traffic management to warn drivers of the increase in slow moving vehicles exiting from and entering B3181 at the Merry Harriers. Therefore should consent be granted the following conditions should be imposed and the plans, construction management plan should be conditional of any consent.

Recommendation:

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

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

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

2. Visibility splays shall be provided, laid out and maintained for that purpose at the Primary site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in a southern direction and as identified on the access plan in the other direction.

REASON: To provide adequate visibility from and of emerging vehicles.

3. Visibility splays shall be provided, laid out and maintained for that purpose at the other site accesses in accordance where the visibility splays provide intervisibility between any points

on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33.00 metres in on coming direction and 33.00 metres to the centre line in the offside direction.

REASON: To provide adequate visibility from and of emerging vehicles.

4. No other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

REASON: To ensure that adequate facilities are available for the traffic attracted to the site.

5. Off-Site Highway Works No development shall take place on site until the off-site highway condition surveys have been undertaken and approved in writing by the Highway Authority.

REASON: To minimise the impact of the development on the highway network in accordance with National Planning policy Framework.

Devon County Historic Environment Team

A programme of archaeological work, consisting of geophysical survey and field evaluation has been undertaken on this site. These investigations have demonstrated that the site is largely of low archaeological potential. However, a single - as yet undated - iron furnace was exposed within one of the evaluation trenches. This indicates the presence of previously unrecorded iron working in this area. There was an iron extraction industry operating across the Blackdown Hills to the east from the early Roman through to the medieval periods. A sample has been submitted for radiocarbon dating and the applicant will be undertaking appropriate assessment and analysis of palaeo-environmental and metallurgical samples.

In the light of this new information the Historic Environment Team are able to withdraw its previous objection and would recommend that the impact of development upon the archaeological resource associated with the area where iron working has been identified here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme,

or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of the area around the iron furnace identified in the initial field evaluation to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

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

<https://new.devon.gov.uk/historicenvironment/development-management/>

Revised Comments – 18th February 2021

A programme of archaeological work, consisting of geophysical survey and field evaluation has been undertaken on this site. These investigations have demonstrated that the site is largely of low archaeological potential. However, a single - as yet undated - iron furnace was exposed within one of the evaluation trenches. This indicates the presence of previously unrecorded iron working in this area. There was an iron extraction industry operating across the Blackdown Hills to the east from the early Roman through to the medieval periods. A sample has been submitted for radiocarbon dating and the applicant will be undertaking appropriate assessment and analysis of palaeoenvironmental and metallurgical samples.

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Devon County Lead Flood Authority

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has not provided any information in relation to the disposal of surface water from the site (specifically the 590m² of impermeable area from the substation, DNO equipment and central inverters) to enable me to make observations on the proposal. Due to the size of the impermeable area the surrounding grassed area will not be an adequate means of surface water drainage. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from this area will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which can be found at the following address:

<https://www.devon.gov.uk/floodriskmanagement/sustainable-drainage/suds-guidance/>.

It is understood that the site will be grassed, we would suggest a hardy/ tussock species of grass for the strips on the down side of all the solar panels to reduce the potential for erosion. The applicant should also consider planting around the watercourses to provide a further filter for sediment should erosion occur.

29.01.21

Following my previous consultation response FRM/MD/01679/2019, dated 30/10/2020, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

Flood Risk Assessment Langford Solar Farm, Devon, Job Ref BR-629-004, Rev 5

We are pleased to see that a french drain and swale is being proposed to manage the runoff from the impermeable area in the south west of the site. However the calculations indicate that a value of 20% was used for climate change rather than 40%.

Due to the length of the proposed swale consideration should be given to the use of check dams.

The applicant should explain why swales are only proposed to manage the runoff from one of the areas proposed for the solar PV panels.

We would be happy to provide another substantive response if additional information is submitted to the local planning authority.

4.02.2021

Following my previous consultation response FRM/MD/01679/2019, dated 29/01/2021, the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 02/02/2021, for which I am grateful.

Technical Note, Response to DCC Objection Langford Solar Farm, 629-0004 dated 2nd February 2021

The applicant has updated the calculation in Micro Drainage based on our requirement for 40% for climate change for the attenuation volume. The calculation indicates that the swale can accommodate the 40% climate change allowance, 20% was previously used within the design.

The freeboard has lessened however we feel due to the nature of the proposals being a solar farm, this is acceptable in this instance.

The applicant has considered the use of check dams within the swale but considers that they are not appropriate here due to the gradient of the swale being 1 in 150.

To summarise, the applicant is proposing a filter drain and a swale to manage the runoff from the substation/ battery units and inverter cabins. Grass will be maintained below the panels in line with best practice and a buffer strip will be utilised downslope of the solar panels. Additional swales are also being proposed to manage the runoff from the solar fields in a field located outside of the fluvial flood zones.

The applicant should be mindful of easements adjacent to ordinary watercourses and that a Land Drainage Consent would be required for any works to an ordinary watercourse at this site. The applicant has confirmed that the drainage will be maintained by either the landowner or a management company. All proposed drainage devices should be maintained as should the scrapes and buffer strips.

Environment Agency

We have reviewed the document titled 'Response to Environment Agency' dated 2nd December 2019 by Kris Tovey of Calibro Transport, Flood and Infrastructure consultants and advise that our position remains that of our previous letter dated 30th October 2019. We

maintain our objection to the proposed development. The reason for this position and advice is provided below.

Reason – As a statutory consultee, we advise your authority regarding planning proposals in accordance with policy contained within the National Planning Policy Framework (NPPF), and its associated Planning Practice Guidance (PPG).

This response highlights two important issues very much embedded into the above government planning policy documents that would potentially significantly affect the size and layout of the proposed Solar Panel Farm, these being the Flood Risk Vulnerability Classification of the proposal, and issue the Sequential Test.

Flood Risk Vulnerability Classification

We bring to your Authority's attention Table 2 of the PPG which states the following:

'Essential infrastructure

- Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.
- Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations; and water treatment works that need to remain operational in times of flood.
- Wind turbines.'

In light of the above statement we advise your authority that Solar panels, and associated infrastructure, do not require to be in areas at risk of flooding for operational reasons.'

We also bring to your attention the fact that Solar Panels, and associated infrastructure' are also not included in the definitive list of 'Essential Infrastructure' in Table 2.

Given the above we disagree with the statement in the Closure section of Calibro's letter of the 2 December 2019 that 'The proposed development constitutes essential infrastructure..' and thus we maintain our objection to the provision of Solar Panels or other associated infrastructure within areas of 'Functional floodplain' FZ3b. By definition any development of the type sought within FZ3b would be 'inappropriate'.

The Sequential Test

We bring to your Authority's attention the following sections of the PPG.

The sequential, risk-based approach to the location of development

What is the sequential, risk-based approach to the location of development?

This general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible.

Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds. According to the information available, other forms of flooding should be treated consistently with river flooding in mapping probability and assessing vulnerability to apply the sequential approach across all flood zones.

The aim of the Sequential Test

What is the aim of the Sequential Test for the location of development?

The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The [flood zones](#) as refined in the Strategic Flood Risk Assessment for the area provide the basis for applying the Test. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the [flood risk vulnerability of land uses](#) and consider reasonably available sites in Flood Zone 2 (areas with a medium

probability of river or sea flooding), applying the [Exception Test if required](#). Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

Who is responsible for deciding whether an application passes the Sequential Test?

It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.

With these three fundamental statements in mind we confirm that:

- The principle of providing Solar Panels or other associated infrastructure within areas of Flood Zone 2, and then areas of Flood Zone 3a, would be acceptable subject to MDDC confirming they deem the Sequential Test has been applied and passed.
- The principle of providing Solar Panels, and associated infrastructure, within areas of 'Functional floodplain' FZ3b is clearly contrary to written government planning policy.

Functional Floodplain

On the subject of 'Functional Floodplain' FZ3b we bring to your Authority's attention the fact that the applicant's Flood Risk Assessment does not differentiate between which parts of FZ3 are FZ3a (high risk) and which parts are FZ3b (functional floodplain). This is vitally important so that Local Planning Authority can be in a position to apply the Sequential Test for the area of Flood Zone 3, and thus identify the areas where inappropriate development should not be permitted. In the absence of not knowing which parts of Flood Zone 3 are functional floodplain i.e. FZ3b, your authority should consider the area of Flood Zone 3 as all being Flood Zone 3b (functional floodplain). Such a stance would conform with policy contained within MDDC's Strategic Flood Risk Assessment.

21.12.2020 Revised Comment

Based on the revised Flood Risk Assessment (FRA) by Calibro dated 30 Nov 2020 and the revised site layout (918-1820_14 REV J) we are able to remove our objection to this proposal. We recommend that a condition is included within any permission granted to ensure that the mitigation measures proposed in the FRA are implemented, including the level for level floodplain compensation outlined in paragraph 7.6.6 of the FRA.

Before determining the application your Authority will need to:

- confirm the vulnerability classification of the development with reference to the Planning Practice Guide; and
- if you agree with our conclusion that it is essential infrastructure, be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF.

Please let us know if you would like us to suggest wording for the recommended condition. Further flood risk advice is set out below.

Advice – Flood Risk

The applicant has submitted a revised FRA informed by revised flood modelling and advice we have given. We confirm that the FRA has satisfactorily assessed the flood risks and proposed acceptable mitigation measures.

We confirm that part of the site is located within Flood Zone 3b (functional floodplain).

However, the revised site layout (918-1820_14 REV J) shows:

- no solar panels in the active functional floodplain (no build area);
- revised connected flood compensation areas;
- the use of deer fencing;

- the design of the panels 300m above ground level;
- enhanced scrapes to the no build area;
- minimal culverting of the watercourse for access routes.

These measures are acceptable to minimise flood risk from the development

Advice – Vulnerability Classification

Based on the characteristics of the development and conversations our National Office are having with MHCLG, we consider that it should be considered in the same light as wind turbines, i.e. essential infrastructure. However, the vulnerability classification of this development remains your Authority's decision on.

Your view on this will be important because less vulnerable development should not be permitted within functional floodplain, but essential infrastructure can be acceptable in principle (subject to the Sequential Test).

Informative – Environmental Permitting

Under the terms of the Environmental Permitting (England and Wales) Regulations 2010 a permit is required for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the river. Further details and guidance on how to apply or register an exemption are available on the GOV.UK website:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

Natural England

Climate Change

Natural England recognises that climate change represents the most serious long term threat to the natural environment because of the damage it will cause to ecosystems, the biodiversity, landscape value, and services to society which they support. Solar energy developments have an important role to play in meeting national targets to reduce UK contributions to greenhouse gases. The present challenge is to move to a low carbon economy without unacceptable impacts on the natural environment.

Designated sites

Details of designated sites can be found at www.magic.gov.uk The proposal does not appear to trigger any relevant thresholds within Natural England's designated sites Impact Risk Zones(*2) (IRZs). It is our advice, on the basis of the material supplied with the consultation, that, in so far as statutory designated sites are concerned, there are no potential impacts.

Protected Landscapes

The proposed development is for a site within 6km of the Blackdown Hills Area of Outstanding Natural Beauty (AONB) and has triggered Natural England's Impact Risk Zones for solar developments greater than 10ha. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape. Alongside national policy you should also apply landscape policies set out in your development plan or appropriate saved policies.

We note that you have consulted the Blackdown Hills AONB Partnership but they have yet to comment. They will have knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, which will be a valuable contribution to the planning decision.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

All proposals should complement and where possible enhance local distinctiveness and be guided by your Authority's landscape character assessment and the policies protecting landscape character in your local plan in determining the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

Your Authority's supplementary planning document (SPD) 'Solar pv developments in the landscape 2016' suggest that all landscapes in Mid Devon are sensitive to very large schemes (>15ha) and outlines out a set of principles to follow.

You may also find useful the Devon Landscape Policy Group Advice Note No. 2: 'Accommodating Wind and Solar PV Developments in Devon's Landscape' particularly with reference to cumulative impacts and siting and design.

Biodiversity net gain

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 170 and 174 of the revised NPPF (*3) (2019), the Defra 25 year Environment Plan (*4) and the Environment Bill (*5).

We advise you first to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and consider what existing environmental features on and around a site can be retained or enhanced before considering what new features could be incorporated into a development proposal.

An evidence based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions (*6) (under Section 40 NERC Act, 2006). Biodiversity metrics (*7) are available to assist developers and local authorities in quantifying and securing net gain. The Environment Bill sets out a 10% net gain threshold.

Natural England's Technical Information Note Solar parks: maximising environmental benefits (TIN101)(*8) provides a summary of advice about their siting, their potential impacts and mitigation requirements for the safeguarding of the natural environment. You may also wish to note the industry guidance 'Solar farms and biodiversity opportunities'(*9)

Consideration could be given to the use of SuDS features in managing surface water run-off from the panels to prevent soil erosion.

We note that the proposal includes maintaining established field boundaries, planting native hedgerows and trees, enhanced wildlife corridors through the site and new species rich grassland around the panels and our advice is that any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP). There may also be the potential for the development to have a wider positive impact by financially contributing to local environmental / social initiatives in the Parishes affected to help connect people and wildlife.

Soil and land quality

From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the

loss of over 20 ha 'best and most versatile' agricultural land (BMV) (paragraph 112 of the National Planning Policy Framework).

The Agricultural Land Classification report (Davis Meade Agriculture October 2019) indicates that the land affected is predominantly Grade 3b and not therefore BMV agricultural land.

For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils, although more general guidance is available in Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend that this is followed. If, however, you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

We note that the panel arrays would be mounted on steel posts driven into the ground and that no substantial areas of concrete construction would be required, with the exception of foundations for the Inverter, the sub-station buildings and the battery storage facility, meaning that the panel arrays could be removed when planning permission expired with no likely permanent loss of agricultural land in the long term.

Whilst soil would be disturbed in some parts of the site through the construction of the switch station and access tracks and installing of buried cables this equates to a relatively small area and much of the soil disturbance is likely to be reversible during decommissioning.

Based on the information provided, the agricultural use of the land would subsist alongside the proposed PV panels through the grazing of sheep and that the land would be restored to full agricultural when planning permission expired (approximately 40 years).

Detailed guidance is available in Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks) and we recommend that this is followed.

We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2014).

Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has produced standing advice (*10) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - Guidance Note 8 Bats and Artificial Lighting (*11). They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats.

Where security fencing is proposed it should be permeable allow the continued movement of species through the wider landscape and we note that this has been accounted for.

Ancient Woodland and veteran trees

We note that there may be ancient/veteran trees within the development site. Natural England and the Forestry Commission have produced standing advice for ancient woodland and veteran trees http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland_tcm6-32633.pdf.

Local authorities have a vital role in ensuring their conservation, in particular through the planning system. When determining planning applications, local planning authorities should apply the following principles (NPPF para.175):

- if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts); adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

Should the proposal change, please consult us again.

Blackdown Hills AONB Partnership

Do not wish to comment.

RSPB

Do not wish to comment.

Exeter Airport

No objections.

Historic England

This application is for the construction of an extensive solar array in an area which typifies the rural Mid Devon landscape, consisting of gently rolling countryside interspersed with vernacular buildings. A considerable number of those buildings are listed as being of architectural and historic interest and therefore their setting warrants special consideration in the consideration of any impact which might be caused by the development, as set out in Historic England's Good Practice Advice In Planning Note 3 - The Setting of Heritage Assets.

Of the listed buildings within close proximity to the application site that fall within our planning remit, Langdon Court, a grade II* late medieval (and later) house has the potential for its setting to be most directly affected. This is due to its position 350m from the nearest extent of the solar array, and the fact that the array extends across a considerable extent of landscape which forms a backdrop to the north of the Court. We have not had the opportunity to visit the site in order to make a closer inspection of Langford Court and its setting, but consider that any potential for harm to this highly graded building needs careful consideration, as is set out in paragraphs 193-194 within the NPPF.

The applicant's heritage statement provides a detailed assessment of the potential impact of the development on Langdon Court, concluding that it would result in "no harm" to its setting. This conclusion is reached due to the view that the array won't be visible from the house itself, combined with the previous erosion of its setting considered to have been caused by the development around it in the twentieth century of a large industrial-scale farmyard and its accoutrements.

We would not entirely agree with the author of this report that the wider agricultural setting of the Court is of minimal significance to its setting. Our view is that a vernacular building that originated as the focal point of an agricultural estate has a meaningful relationship with the surrounding farmland in both functional and visual terms - as has been accepted by planning inspectors in a number of appeals for similar developments.

The Landscape and Visual Impact Assessment identifies the potential visual impact of the array on Langford Court by selecting a location on a public footpath immediately to its east looking towards the array. This viewpoint forms the basis of a photomontage which

illustrates that a wide array of solar panels could be intervisible with the house, as it is approached and passed on the footpath.

It would have been useful if a viewpoint could have been provided to show whether a view of the front of the house itself would be changed by acquiring a backdrop of solar panels. That change from currently undeveloped fields (as evidenced in the images in the LVIA) to an industrial array of solar panels, regardless of how much the immediate setting of the house is affected by modern farm buildings, would only cause more harm to its setting.

In relation to GPA 3 - The Setting of Heritage Assets, the sequential test set out as a means of assessing whether an unacceptable impact would be caused to a heritage asset, makes clear that harm should preferably be avoided or minimised. We would question whether the extent and location of the development has taken sufficient account of achieving that objective. We would request that the Council's heritage specialist makes an independent assessment of the setting of Langford Court, to judge the level of potential harm that might be caused to its setting and whether that harm could be avoided or minimised to an acceptable level.

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

Conservation Officer (MDDC)

The heritage aspects of this application relate to the setting of listed buildings including one grade II* building.

The starting point for the considering of applications which affects a listed building or its setting is the statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (section 66).

The Court of Appeal has made it absolutely clear that the statutory duty in relation to section 66 does not allow a local planning authority to treat the desirability of preserving the settings of listed building as a mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a development would harm the setting of a listed building it must give that harm considerable importance and weight. Finding of harm gives rise to a strong presumption against planning permission being granted. This presumption is a powerful one, but not irrefutable. It can only be outweighed by material considerations powerful enough to do so.

Applicants for consent that affects a heritage asset must be able to justify their proposals. The NPPF says that the LPA should require an applicant to describe the significance of any heritage asset affected including any contribution made to their setting. This should be sufficient to understand the potential impact of the proposal on its significance. As a minimum the Heritage Environment Record should have been consulted and the building assessed using appropriate expertise where necessary. When considering the impact of development, **great weight** should be given to the asset's conservation. Any harm or loss should require clear and convincing justification from the applicant. Any harm should be judged against the public benefit, including securing the optimum viable use. (The optimum use is the one that causes the least harm to the significance of the asset).

This approach is reinforced by policy DM27 LP3 and it requires development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them. It also goes on to state that where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit.

Advice on how to assess the setting of heritage assets is given in the Historic England general advice note 3 – The Setting Heritage Assets.

The applicant has submitted both a heritage statement and a LVIA.

The applicant in 5.2 of their heritage statement identifies assets as potentially susceptible to indirect impact as being shown on Figure 2. This figure identifies over 80 listed buildings, and omits the Conservation Area in the area covered by the map. The legend relates to the listed buildings but does not explain the black dashed line. This may be the zone of influence. There are 18 listed buildings within this area.

The applicant states that the buildings identified in figure 2 were inspected during a site visit. The only asset that was found to warrant further assessment comprised the Grade II* listed Langford Court. There is further discussion at 5.48 which lists some of the buildings and explains that the intervening distances; the lack of material inter-visibility; the lack of relevant non-visual associations; lack of third points from which both are visible within the same view shed to any material extent; negates the potential for development within the site to adversely affect their heritage significance. This lacks detail and does not justify the proposal in the context how a building has gone from being potentially susceptible as identified by the applicant to not to warrant further assessment. Whilst accepting that any submission should be proportionate, the submission is an assertion not a reasoned justification. This step should be further explained to justify and explain the proposal where there is a statutory duty to have special regard to the setting of listed buildings.

The applicant does go further with the Grade II* Langford Court. This is a large building, now two houses with associated historic outbuildings, set on a small promontory on the side of the valley. The listed group sit on a level platform, with the land continuing to rise to the west. The building is painted white and is visible and prominent in the landscape.

GPA 3 advises us that significance relates to how an asset is experienced. This includes views to and from the asset. Views do not have to be designed and may be long views. At 5.49 and 6.4 the applicant states that all key views towards and from all the identified heritage assets have been assessed.

The Heritage statement identifies the effect on views from the Langford Court to the east to be negligible. Negligible is not none. It may be too small or too slight to be considered of importance to the author of the report but it should be noted that it is registerable.

I can see no such assessment of the views from the east towards Langford Court in the Heritage Statement.

This view is considered in the LVIA as viewpoint 7 and 7A. Their Landscape Architect considers the value of the view, which includes the highlighted Langford Court, to be medium with Medium Sensitivity. It states “The proposed solar farm battery storage and substation would be distinguishable in the mid-ground” and goes on to assess the impact to be minor to moderate.

The battery storage and substation includes a spare parts container, a battery inverter, a customer cabin, a client substation, a DNO substation, a control room and a 132KV Substation Gantry. The area is roughly 100m by 40m. The overall height of the buildings is about 3m above ground level. It is assumed that there will be a number of 4m camera positions, and a fence for the compound, but again no details. There are no lights shown to facilitate safe access for workers, but these are highly likely.

This and the array in the field behind sits in the key view of Langford Court across the valley. This area is identified as field number 13 by the Consultant the Council retained to review the applicants LVIA. Their assessment is that the level of change is greatest in two sectors including field 13. It states the introduction of the built structures as part of a large complex of cabins and battery storage would result in a high scale of change to field 13. This is ultimately assessed as having an overall visual effect of Minor to Moderate.

In my view, with regard to the experience of the heritage asset, there will be a noticeable localised Moderate harmful change in the view to Langford Court from the road at Plymtree identified as view point 7. This will result in a slight to moderate negative impact on the experience of this Grade II* listed building by the introduction of a new and prominent element into the view, which will draw the eye and compete with the heritage asset, and the

loss of a typical rurality of agricultural and other features that are expected in the countryside.

There would also be adverse changes to views from Viewpoints 5 and 6 as assessed by our consultant.

View 6 includes views from the west of the site and includes Langford Court in the view of the wider landscape. I would be of the view that in terms of the setting of Langford Court, this proposal would noticeably change the setting and experience of the asset, resulting in a Minor Magnitude of impact and a Slight negative harm, in that the asset will be read against a landscape which has had a major impact in visual effect.

View 5 is from the public footpath to the front of the Langford Court. This is on the lip of the small plateau the house sits on. I have not been into the house, principally the upper floors, but the view from the outside of the house at ground floor level is quite different than that from the footpath, as the house is set back from the edge of the plateau and cannot see down into the full width of the valley. However the existing garden extends up to the footpath, and although it is agreed that this present garden is not historically significant, it is the area where the house is currently appreciated. The applicants LVIA assess the impact as Moderate on residents and PROW users, our consultant: Major. Due the reduced significance of the view point and the lack of direct visibility, at least from ground level at the house, my assessment would be a noticeable change to setting resulting in a Negligible magnitude of impact and a Negligible adverse harm to the experience of the asset.

Overall the applicant has failed to justify the assertions made with regard to the Grade II listed buildings. The heritage assessment of the grade II* building has failed to take into account the long views of the building which relate to the experience of the asset. The proposal would result in registerable harm to the significance and setting of the grade II* listed Langford Court which must be given considerable weight and importance by statute and be contrary to the NPPF and Policy DM27 of the adopted Local Plan.

Devon Wildlife Trust

Whilst it is acknowledged that solar farms can often provide opportunities for improving the biodiversity of fields in agricultural use, the extent to which they will actually do so depends on effective, on the ground, implementation. Any planning decision will therefore need to be made with confidence about the biodiversity mitigation & enhancement measures proposed. Will, for instance, new habitat be effectively created (in terms of quantity & quality); managed (to maintain this quality); monitored (to detect & resolve any issues arising); and is there a source of funding for carrying out these actions?

Unfortunately, **the documents submitted with the above planning application do not give the required confidence that the habitat mitigation proposed will actually be effectively implemented.** Our reasons are as follows.

Effective creation of mitigation habitat (in terms of quantity & quality). No figures have been submitted for the loss of existing habitats (of various types & quality). Similarly, it is not known how much newly created habitat, (of various types & quality), is being proposed.

The National Planning Policy Framework requires 'net gains' in biodiversity (NPPF para. 170) and these net gains should be '**measurable**' (NPPF para. 174b.).

The National Planning Practice Guidelines (Natural Environment para.022) state-
"The NPPF encourages net gains for biodiversity to be sought through planning policies and decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development.....It may help local authorities to meet their duty under Section 40 of the NERC Act 2006".

This recommended that the following should 'inform further detailed design and any discharge of planning conditions' -

- new species-rich grassland
- new planting
- bat roosting and bird nesting measures
- the above would be detailed in an Ecological Enhancement & Management Plan which can be secured by a planning condition on any consent.

The National Planning Practice Guidelines (Natural Environment para.023) states that –

“Care needs to be taken to ensure that any benefits (for wildlife) promised will lead to genuine and demonstrable gains for biodiversity”

We believe that more detail is required before the above can be satisfied. For instance, how long will it take to establish the proposed grassland to the required 'species-rich' quality? How much, where and what type of new planting is proposed? It is not sufficient to say that these matters will be dealt with in a future Ecological Enhancement & Management Plan. They need to be known before a decision can be made on a planning application having implications for such a large area of countryside.
Managed (to maintain the quality proposed)

Similar to the above, more details about how the proposed and existing habitats are to be managed is required before the application is decided. For instance, who is going to manage the new habitat and for how long?

Monitored (to detect & resolve any issues arising)

The Ecological Enhancement & Management Plan will need to include provision for monitoring. A close eye needs to be kept on the newly created or enhanced habitats, as they evolve, to ensure that they meet expectations. We would recommend that a habitat restoration ecologist be involved in drawing up such an EE&M Plan and be involved in subsequent managing, maintaining and monitoring, to give credibility to any proposals, findings and any suggested remedial action.

Funding

The source of funding needs to be identified for the life of the project, to cover the costs of habitat creation, management, monitoring and any remedial action.

REPRESENTATIONS

136 representations have been received from the general public.

36 letters of objection have been received, including from the Campaign to Protect Rural England, raising the following material concerns:

- The proposal is too big, particularly when considered in combination with a separate solar farm located nearby.
- There would be a loss of trees and harm to wildlife.
- There would be a loss of prime agricultural land for a long period of time.
- The loss of grazing land as a result of the grasses receiving insufficient sunlight.
- The proposal would harm the rural character of the area and dominate the village.
- Potential harm to human health as a result of radiation.

- Harm to highway safety and amenity, particularly during the construction phase. The local highway is considered sufficient to accommodate additional traffic, particularly heavy goods vehicles.
- Potential noise nuisance during construction, and once operational.
- Harm to neighbouring amenity as a result of noise and disturbance.
- Screening should be installed/planted prior to construction starting.
- Impact on neighbouring businesses, including a camp site and bird-of-prey related enterprise, owing to noise and disturbance, and difficulty retrieving birds that may land in the site area once the development is in place.
- The proposal would worsen flood risk and surface water run-off, with potential for soil erosion.
- The proposal would not provide a consistent or reliable supply of energy and there is a lack of information about the capacity and usefulness of the proposed batteries.
- Risk of pollution as the solar panels degrade over time.
- The benefits of the proposal are significantly outweighed by the harm in terms of the landscape, loss of greenfield land, and the environment.
- The proposal would be harmful to the Grade II* listed Langford Court.
- The proposal will eventually become redundant and derelict.

2 letters of support stating that:

- Renewable energy facilities will help to address climate change.
- The visual impact will be limited owing to flat ground and use of screening.
- The proposal can be removed at the end of its life and the land restored.
- Grazing can continue on the land and biodiversity can be enhanced compared to the existing situation.
- The proposal would not worsen flood risk.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1) Principle of Development:

The proposal is for a renewable energy facility, located in open countryside and must be assessed against the policies of the Development Plan. An application which is in accordance with the Development Plan must be approved unless material considerations indicate otherwise.

The key policies of the Mid Devon Local Plan 2013 – 2033 are S9 and DM2. Policy S9 of the Local Plan allows for renewable energy development where there is an acceptable local impact...balanced with the wider sustainability benefits of renewable energy. Policy DM2 has a presumption in favour of renewable energy proposals provided that the proposal does not have significant adverse impacts on the character, the amenity and the visual quality of the area.

The Cullompton Neighbourhood Plan 2020 – 2033 is supportive of the increase use of renewable energy subject to controlling the impact of renewable energy installations.

The NPPF states that the planning system has three overarching principles - economy, social and environmental. The environmental objective includes “mitigating and adapting to climate change, including moving to a low carbon economy. The NPPF builds on this principle and defines renewable energy in the following way:

“Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun

and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).”

Paragraph 148 of the NPPF states that:

“The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.”

Paragraph 154 of the NPPF states that:

When determining planning applications for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable...”

Taking the policies of the Local Plan and the material consideration of the NPPF, it is considered that there is support for the development of renewable energy facilities within the open countryside. On this basis there is no objection to the principle of a solar farm in the open countryside.

It should be noted that there are other solar farms in the vicinity including the Cullompton Solar Farm (previously known as the Winham Solar Farm), which was approved on appeal by the Planning Inspectorate and has been operational since December 2015.

2) Visual Impact and Heritage Assets

Policy DM1 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM2 states that proposals for low carbon or renewable energy will be permitted where they do not have significant adverse impacts on the character, amenity, and visual quality of the area, including cumulative impacts of such developments. Policy DM25 seeks to ensure that a development proposal does not cause significant harm to a heritage asset or where it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the NPPF are met.

Visual Impacts

The applicant submitted a Landscape Visual Impact Assessment as part of the application, and this was considered against the policies of the Local Plan 2021 – 2033 and the Council's Supplementary Planning Document (SPD) –Solar PV Developments in the Landscape (2016).

The SPD identified three main principles against which a solar PV development must be considered against

Principle 1: Solar PV developments should minimise their effects on the landscape through sensitive siting and design.

Principle 2: Solar PV development should be of a size and scale appropriate to the landscape, with particular regard to its sensitivity to change as a result of such development.

Principle 3 Solar PV development proposals should include an assessment of landscape and visual effects, taking into account the location of the site's landscape sensitivity as well as that of adjoining Landscape Character Types and Areas (where appropriate). The cumulative effects of existing and consented solar PV development in the surrounding area should also be considered.

It is acknowledged that the proposed solar farm would introduce a new and uncharacteristic feature to the landscape of this part of Mid Devon which may have an impact upon the character of the area. The SPD assesses that the host landscape (Lowland Plains) has a landscape with medium sensitivity to solar PV development – although it is highly sensitivity to very large solar PV developments (such as the proposal). Though it should be noted that the SPD is a high level guidance documents and should not replace an individual site assessment for a proposal of this kind.

The applicant submitted a Landscape Visual Impact Assessment for the solar farm. The applicant considered that the visibility of the proposal would be limited by the surrounding landforms of the rolling countryside, the intervening vegetation and the distance of the site. In addition the low profile of the panels would not be easily perceptible in most views from publicly available viewpoints, which are limited in number.

Following on from this the Council had an independent review of the LVIA carried out due to the size of the development within the Mid Devon rural landscape.

The independent review concluded in the wider landscape, the development would result in the change of rural character over an extensive area of the local landscape and would result in the introduction of new, uncharacteristic elements into the landscape. While the arrays would be noticeable in the local landscape, their full scale would only be perceived in a few locations on high ground at some distance from the site. In the local area, existing tree growth, substantial hedgerows and the generally flat topography would help to mitigate the overall scale of the proposal.

The Visual effects are considered to be in line with those predicted in the LVIA, with the exception of VPs 5 (Langford Court) and 6 (Hill west of Clyst Hydon), where effects are assessed as major adverse and moderate/major adverse respectively. It is acknowledged that the introduction of PV solar arrays at this scale would introduce a prominent new element into the view behind Langford Court (Grade II*) The nature of the view would change from one of typical rurality containing only agricultural and natural features to one where PV solar array was evident and prominent. The view would be of a rural, farmed landscape containing PV solar array as a defining element.

The proposal overall would lead to lesser landscape and visual effects than might be predicted from the SPD assessment of the host landscape. As a result, it is considered that further mitigation (other than reducing the overall scale of the proposal) would have little effect on further reducing landscape or visual effects.

It should be noted that the independent review did not disagree with the LVIA conclusion in relation to VP7 from the edge of Plymtree and taking in Langford Court in the mid distance. It is considered that there would be a minor/ moderate impact on the landscape. The proposed solar farm battery storage and substation would be distinguishable in the mid-ground. Proposed planting would further screen this area over time.

Overall the proposal will have a moderate/ minor impact upon the landscape of the area, though there are areas of concern with two of the viewing points with major and moderate/major concerns. Taking the 61ha site as whole it is considered that the harm

identified with VPs 5 and 6 is not sufficient to warrant the refusal of the development on impact to the landscape character.

Heritage

There are no designated heritage assets within the site; however Langford Court, a Grade II* building is a heritage asset outside but in close proximity to the development site. This heritage asset is identified as having potential impacts by the proposal.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. The importance of considering the impact of new development on the significance of designated heritage assets is dealt with in section 16 of the NPPF. This section advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm requires clear and convincing justification.

The setting of heritage assets is defined in the glossary of the NPPF as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surrounding evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Langford Court is a Grade II* house, which was originally the centre of a 465 acre estate. Over time the grounds have been divided to accommodate an intensive agricultural regime of sheds, barns, silos and tanks. Langford Court, is now used as two separate dwellings, and has agricultural buildings surrounding to the North, North West, South West and a fishing lake to the East. The consideration of harm to the setting of Langford Court by the solar farm, must be seen within the context of the setting of the Court which has been altered by the agricultural buildings.

It is clear from the submitted Heritage Assessment that the overall views of the solar panel array from Langford Court itself would not cause harm to the setting of the house. Both Historic England and the Council's Conservation officer state that the issue is the impact of the location of the solar panel array in the south eastern part of the application site upon the setting of Langford Court. It has already been recognised through the LVIA discussion that the view from the west towards Langford Court (to the east) will change from the house with a rural landscape to the house with a back drop of the solar panel array. This view has been designated as major adverse view upon the landscape. In contrast the view from the edge of Plymtree looking east towards Langford Court and over the array has a moderate impact on the landscape.

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

Paragraph 196 of the NPPF states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. This is reiterated by Local Plan policy DM25 (d).

In terms of the public benefit the solar farm of this size will generate a significant amount of electricity from renewable sources. In context the proposed solar farm can meet the energy needs of approximately 10,077 homes in the Mid Devon District. This would be a substantial

benefit to Mid Devon and would mean that Mid Devon would be contributing to the aims of Devon Climate Emergency Response Group by reducing carbon emissions.

It should also be noted that the scheme would represent a substantial investment of £40,000,000. The development will also support between 70 and 80 direct and indirect jobs during the construction phase and a smaller number of jobs when the solar farm is operational

Taking account of the public benefit of the scheme in the production of renewable energy balanced with the less than substantial harm impact of the solar farm on the setting of Langford Court, it is considered that the proposal on balance accords with Local Plan policies DM2 and DM25 and the provisions of the NPPF.

3) Access Arrangements

Policy DM1 of the Local Plan states that new development should be safe and accessible.

The proposed development is making use of existing access points off the lane which links the B3181 to Langford, and the lane which links Langford Green with the Plymtree. The primary access to the site will be via the farm access to Tye Farm, and that the secondary access points will make use of the existing gated field access points from the Langford Green to Plymtree Lane. The Highway Authority has not raised any objections to the proposal subject to the use of conditions to secure improvements to the surface and the visibility splays of the existing access points.

In addition the applicant has submitted a construction management plan which has highlighted that during the construction period the primary access point at Tye Farm will be used for the delivery of materials by articulated vehicles. These will then be off loaded to smaller construction vehicles, to move the materials and equipment to the other parts of the site utilising the secondary access points. One of the key reasons for using smaller vehicles is to avoid issues with the bridge on the lane from the primary access to the secondary access, as the bridge has a 26t weight limit. The Highway Authority has welcomed the provision of wheel washing and road sweeping to keep the roads clean during the construction period. In addition the Highway Authority will seek traffic management measures to warn drivers of the increase of slow moving vehicles exiting and entering the B3181 at the Merry Harriers Public House. This is important as the speed limit on the B3181 is 60mph, and there is a need to ensure the safety of all highway users.

The parking for the contractors and the construction compound itself will be on the part of the site close to the access from Tye Farm. This will accommodate up to 80 construction workers during the setting up of the solar panel array and it is anticipated that the construction period will be 26 weeks. Once construction is completed there will only be limited access to the site for repair and maintenance. There will be no public access to the site.

The Highway Authority has recommended a number of conditions to be considered should planning permission be granted. It is considered that subject to the conditions the proposed access and parking arrangements are satisfactory and are in accordance with the Local Plan Policies DM2 and DM8.

4) Amenity

Policy DM2 states that renewable and low carbon energy development will be considered in relation to the environmental amenities of nearby properties. Policy DM7 of the Local Plan states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity.

Policy S9 allows for renewable energy developments where there is an acceptable local impact.

The applicant has submitted a Glint and Glare study about the solar panels assessing the impact of the solar farm on the activities of Exeter Airport, the adjoining residential dwellings and the local roads. The study has concluded that there will be no impact upon the operations of Exeter Airport and this is confirmed by the operator of Exeter Airport raising no objection to the proposal.

The study has identified that the solar farm array is likely to have a moderate impact upon a number of dwellings (16) which have a boundary with the proposed the solar farm. In order to mitigate this impact of glare the study has recommended that the boundary hedges are infilled and strengthened with planting, with the suggested hedge height of 3m. This has been supported by Public Health and to ensure that the hedge works are carried out and maintained, it is considered appropriate to condition this. The study has also concluded that the users of the two local roads adjacent to the site, will only be impacted in a limited way by glints from the array. This is due to the low speeds along the roads and existing boundary treatment of the fields to the road

Representations have been made about the life of the panels, potential noise from the panels and the risk of pollution from the degradation of the panels. In general solar panels have a life of approximate 30 years; however with the technology continually evolving it is anticipated that the life of the panels will increase. As part of the operation of the solar farm, there will be regular checks on the condition and operation of the panels, so replacement panels if needed can be installed. It is understood that the panels would have to be disposed of in accordance with Government requirement rules which follow on from the EU Directive – Waste Electrical and Electronic Equipment. This requires the producers of the panels to finance the end of life treatment for the panels.

The solar panels in themselves do not generate noise, and that is the associate equipment such as the transformers, inverters, battery and DNO Substation would give rise to a slight hum during operation but this would be contained to within the site boundary with the panels themselves silently converting solar irradiation to electricity. It should be noted that the noise would not occur at night as the solar power cannot be generated at night. In addition Public Health has not raised an objection to the scheme on the basis of noise.

HGV movements and construction/decommissioning may also generate noise for a temporary period. Even though the access is currently used by vehicles serving the farm, it is recommended that restricted hours of construction and deliveries are imposed by planning condition due to the varied nature of the use they would be linked to.

Given the proposal's siting, scale, and design in conjunction with the limited output in terms of noise emissions it is considered that it would not result in unacceptable harm in terms of neighbouring or local amenity. In this respect, the proposal is in accordance with Policies S9, DM2 and DM7 of the Local Plan.

5) Flood Risk Drainage Arrangements

Policy S1 of the Local Plan seeks to manage the challenge of climate change by...increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources. Policy S9 deals with the Environment and states the provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk by applying sequential test where appropriate, and avoiding an increase in flood risk elsewhere.

The NPPF states in part 14 that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal changes. Paragraphs 155 to 165 (inc) deal with Planning and Flood Risk.

The NPPF directs development away from areas at highest risk of flooding employing a sequential approach. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. It goes on to say that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The NPPF continues by stating if it is not possible for development to be located in zones with a lower risk of flooding, the exception test may need to be applied. For the exception test to be passed it should be demonstrated that

- a- The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b- The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible will reduce the flood risk overall

The applicant has been in lengthy discussions with the Environment Agency and the Lead Flood Authority to resolve the issues in relation to flooding and drainage. The applicant has submitted a site specific Flood Risk Assessment as the site is greater than 1ha and with parts of the site within Flood zones 2 and 3.

The River Weaver is the main watercourse flowing across the central part of the site, in a south easterly direction before flowing east into the River Culm. Around the north of the site is a series of watercourses and drainage ditches which flow into the River Weaver. Another watercourse is located along the field boundaries in the south eastern area of the site. This watercourse flows from northeast to south west and subsequently discharges into the Upper Clyst. The development site is located across Flood zones 1, 2, 3a and 3b and essential infrastructure is allowed to be in these flood zones. The Environment Agency has stated that solar farms are regarded as essential infrastructure.

The Environment Agency Flood Map shows a large area around the central part of the development site to be in Flood zone 3. This zone is described as zone 3 b – The functional Flood plain - as there is a lack of modelling of a < 1 in 20 year flood event. The Environment Agency had a number of concerns about flooding in this area and has defined a “No Build” area which encompasses the area closest to the River Weaver. The applicant has removed all solar panels and fencing from this area. In addition the applicant will be providing a flood compensation area landscape to flows in and out of the functional flood plain, which will not aggravate the current flood plain environment.

The applicant has also agreed the following measures with the Environment Agency
All inverters and DNO equipment, as well as the substation, are located in Flood Zone 1, which will allow for the equipment to remain operational in a flood event. The battery storage area in the south eastern part of the site will be raised 300mm above the existing ground level to provide protection against extreme flooding conditions. The areas of the site located within Flood Zones 2 and 3 will be allowed to flood as existing. This means all development within these areas, including any electrical cables and connections, will need to be resistant to flooding. Solar panels will be raised at least 300mm above the surrounding ground level in all flood risk areas and above the simulated 1 in 100 year +35% climate change level. Deer fencing will be used which allows water to flow through. The applicant proposes to use enhanced scrapes to improve drainage capacity which will have the added aspect of providing a wet field feature which is attractive to wildlife, thereby adding to the biodiversity of the site.

The constructed solar farm will only be accessible to staff and not members of the general public. Therefore, it will be the responsibility of the site managers to ensure that staff are

kept safe from flood risk. A flood escape plan would need to be prepared as part of the flood mitigation measures.

In general development of a solar farm does not have a significant effect on the existing run off rates and that is the case with this site. A surface water drainage strategy is proposed to manage runoff from hardstanding associated with the substation which will reduce runoff rates to as low as reasonably practicable. The proposed drainage strategy has been designed to accommodate surface water flows without flooding up to, and including, the 1 in 100 year storm event plus climate change. Additional swales are also being proposed to manage the runoff from the solar fields in a field located outside of the fluvial flood zones.

In terms of the sequential test as highlighted by the Environment Agency, the applicant has highlighted the need for a viable connection to the electricity network particularly as there is constrained grid capacity in Devon and costs will increase with distance from available connection points to the National Grid. The 132kV line which meets the south-eastern corner of the Application Site has sufficient capacity to accommodate the proposed scheme. This infield connection avoids the requirement for expensive long underground cabling to provide the connection which would make the scheme unviable if more than 1km in length. The need for the connection to the network has acted as a constraint to the siting of the proposed farm.

The applicant has also noted that there is no unconstrained non-agricultural land or any previously developed land in the vicinity for the proposal to be located at. In addition the land to the south and north - west of the site is classed as Grade 1 and 2 agricultural land and it would be unacceptable to develop prime agricultural land for a solar farm. It is considered that the applicant has taken account of the sequential test and as such no objection is raised on the basis of the sequential test.

The Environment Agency and the Lead Local Flood Authority are satisfied with the Flood Risk Assessment and the proposed mitigation measures. In terms of the NPPF exception test it is considered that as the proposal is for essential infrastructure it meets part a) of the test. In terms of part b), the development will not be open to the general public and will not result in an increase in flooding elsewhere. Overall it is considered that the exception test has been passed. Thus the proposal meets the requirements of policies S1 and S9 of the Local Plan.

6) Nature Conservation

Policy DM2 of the Local Plan states that proposals for renewable energy and low carbon development must consider the effects on biodiversity and avoid habitat fragmentation. Policy S9 of the Local Plan states that development will support opportunities for protecting and enhancing species population and linking habitats. The NPPF in paragraph 175 suggests that if there is significant harm to biodiversity resulting from a development which cannot be avoided, adequately mitigated or compensated for then planning permission should be refused. Paragraph 172 of the NPPF advises that great weight should be given to conserving and enhancing landscape and scenic beauty in.....Areas of Outstanding Natural Beauty (AONB).

Taking the above into account the applicant has submitted an ecological impact assessment which noted that the nearest statutory designated site is the Charwell Wetlands (Bradinch) Local Nature Reserve located approximately 3.5km to the west. This site has not been included in the assessment as it is considered to be outside the zone of influence of the proposed solar farm. The majority of the site is arable fields with grazing semi improved grasslands. In addition many of the fields are delineated by managed hedgerows of limited species.

In terms of fauna a number of bats species have been recorded in the area, with hedgerows providing ideal foraging areas but there are limited suitable sites for roosting bats. The area is generally used for bat commuting. Evidence of badger setts were found on the site and the fences for the solar farm will be badger friendly to allow for the free movement of badgers. No records of Great Crested Newts were found and there were limited findings of reptiles due to the managed nature of the land. The survey found a number of different bird species using the hedgerows, which were also found to be home to dormice. The report also included a number of mitigation measures and concerns were raised by the Council's independent ecologist about the report and the mitigation measures.

The applicant subsequently submitted a breeding bird survey which identified a number of notable species to be found on the development site. These included stock dove, dunnock*, willow warbler, reed bunting*, mallard, skylark*, song thrush* and house sparrow. Those birds with an asterisk are identified as rare and threatened species. It should be noted that all wild birds, nesting sites and eggs are protected under the Wildlife and Countryside Act 1981. The report identified that after the construction of the solar farm, the whole site area will provide a relatively undisturbed habitat for the at risk species, particularly the skylark. The report also recommended that the no construction work should take place in the bird breeding season (March to August) and this is reiterated in the informative to the proposed decision notice.

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

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

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

Examples of fauna enhancement include 10 bird boxes and 10 bat boxes to be installed in tree locations around the site. In addition 10 dormice boxes will be placed in hedgerows. The security fencing will be lifted in various locations to allow the badgers movement in and around the site.

The development of the biodiversity interest of the site will be monitored over time by a suitably experienced ecologist. A walkover monitoring survey will be undertaken in years 2, 3, 4, 5, 10 and 15 after construction. This will involve an inspection of the hedgerows, trees, grassland and any other ecological features to ensure that they are being managed in a manner suitable for the enhancement of wildlife interest. Bird and bat boxes will also be checked. The results of these monitoring surveys will be used to inform future changes in

management and the need or otherwise to replace missing bat/bird boxes. The management plan will be amended if necessary based on the monitoring recommendations.

It is considered that the revised biodiversity management plan addresses many of the concerns about the habitat and the biodiversity of the site. Overall it is concluded that the proposal would not result in unacceptable harm to protected species or biodiversity in general subject to the use of mitigation and enhancement measures. In addition this development will not harm the character or the appearance of the Blackdown Hills AONB. The proposal is considered to be acceptable and in accordance with Policies S9 and DM2 of the Local Plan.

7) Loss of Agricultural Land

Policy S1 of the Local Plan states that proposals for renewable energy and low carbon development must consider the quality and productivity of the best and most versatile agricultural land. Policy S9 refers to preserving and productivity of the best and most versatile agricultural land where possible. Policy DM2 which relates directly to renewable energy, states that proposals must demonstrate that impacts are or can be made acceptable in relation to quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a).

Paragraph 170 of the NPPF states that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by...b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land..."

The stance taken by the NPPG is to encourage the effective use of land by focusing large scale solar farms on previously developed land and non-agricultural land Paragraph 13 of the NPPG goes on to state where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

The NPPF defines the best and most versatile agricultural land as being land in Grades 1, 2 and 3a of the Agricultural Land Classification and the implication is that development should use the poorer quality land paragraph. The application is supported by an Agricultural Land Classification report (ALC) undertaken by qualified expert, who confirms that the proposal would utilise 17 fields making up 61ha, with 15 fields of Grade 3b, 1 fields of Grade 4 and 1 field of Grade 5. This means that the site comprises of, at best moderate quality agricultural land, to poor quality and very poor quality agricultural land; therefore the proposal does not result in the loss of good quality agricultural land, and there would be no objection to the use of this land with Grades 3b, 4 and 5 of Agricultural classification.

As the site area for the proposal will cover 61ha, it can only be described as substantial. The solar farm would be in situ for a 40 year period and would not result in the long term loss of agricultural land, and the resource of the land would be available for the next generations. The solar panels are to be secured to the ground with steel piles with limited soil disturbance, which means that the panels can be removed in the future with no permanent loss of agricultural land quality. It should be noted that the construction of the substation and other buildings may permanently impact the agricultural land, but this would be for relatively small areas within the whole development area. The proposal also includes the planting of

grassland around the solar panels for grazing of animals and this would allow for a continual agricultural use during the anticipated 40 year operation of the solar farm.

Overall it is concluded that it would be difficult to justify a refusal of the proposal on the grounds of the impact upon the agricultural land; and that the proposal complies with policies S1, S9 and DM2 of the Local Plan and national policy in respect of agricultural land.

8) Archaeology

Following the receipt of further information, the County Historic Environment Team has raised no objections to the proposal subject to the use of a condition to secure a written scheme of investigation, setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works. Subject to the use of this condition, it is not anticipated that the proposal would result in any harm to archaeological heritage assets, and that the proposal would be in accordance with Policy DM25 of the Local Plan and the guidance contained in the NPPF.

9) Length of temporary consent

The solar farm would be a temporary use of the land as the equipment would be removed and returned to its former condition when the development is decommissioned following 40 years from the date of the first export of electricity to the electricity grid. In the past, 25 year permissions have been sought for solar farm developments. As far as I am aware there is no government time limits imposed on the lifetime of a solar farm. Previously 25 year permissions were imposed as this was the warranty period offered by manufacturers and was used for modelling the viability of solar projects by developers.

The understanding now is that solar farms are now more efficient for a longer period, which has resulted in extended warranty periods, and improved the business models for companies maintaining the solar farm. Whilst this is not necessarily a material consideration, the economic and environmental benefits of increasing the length of operation of the solar farm are improving which means that the community would have the benefit of renewable energy production for a longer period.

It is suggested that any approval of this application should be subject to a condition which requires the permission to be implemented within 3 years, the timeframe for the construction of the solar farm and its commissioning, and a temporary period for the operation of the solar farm. It is also suggested that a condition is needed to ensure the restoration of the landscape takes place when the solar farm is decommissioned and the equipment removed.

Planning Balance and Conclusion

There is an in-principle support for renewable energy schemes in Policy DM2 of the Local Plan and the NPPF provides that the benefits of proposals in terms of renewable energy can be material considerations. The 49.9MWp (Mega Watt peak) would provide electricity equivalent to the average electrical needs of 10,077 homes in the Mid Devon area. This would be a large scheme that would provide a valuable contribution to cutting greenhouse gas emissions and this is a material consideration which warrants considerable weight. The proposal would support the Government's targets in terms of renewable energy provision to meet international commitments. Furthermore it would allow Mid Devon to address the Climate Emergency in conjunction with Devon County Council.

Also there would be ecological enhancement of the application site with species diverse meadows and additional and improved habitats such as new hedgerows and belts of rough

grassland. This would accord with national guidance that biodiversity improvements are to be encouraged around arrays.

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

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

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

RECOMMENDATION

The proposal is considered to be acceptable, having regard to the Development Plan and all other material considerations, subject to the use of the conditions outlined below.

REASON FOR DECISION

As a renewable energy facility, the proposal's location within the countryside is acceptable in principle according to Policy DM2 of the Mid Devon Local Plan. The limited visual harm that the proposal would give rise to would be outweighed by the environmental benefits of allowing it. It is considered that the proposal would not result in unacceptable harm in terms of local and residential amenity; highway safety; surface water drainage arrangements; flooding risk; ecology or in relation to the availability of agricultural land.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The permission hereby granted shall be limited to a period of 40 years from the date when electricity is first exported from the solar panels to the electricity network (The First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority within 14 days of the event occurring
3. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice
4. Within 3 months of the solar array ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition in accordance with details to be submitted to, and approved in writing by, the local plan authority prior to these works being carried out.
5. The Solar PV Panels hereby permitted shall not be erected until samples of the materials to be used in the construction of the solar panel array have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples and retained as such thereafter.
6. The site access roads shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway

7. Visibility splays shall be provided, laid out and maintained for that purpose at the Primary site access where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in a southern direction and as identified on the access plan in the other direction.
8. Visibility splays shall be provided, laid out and maintained for that purpose at the other site accesses in accordance where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33.00 metres in on coming direction and 33.00 metres to the centre line in the offside direction.
9. No other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times
10. No development shall take place on site until the off-site highway condition surveys have been undertaken and approved in writing by the Highway Authority.
11. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
12. No development shall take place until a detailed scheme of ecological mitigation and enhancement measures, in accordance with the recommendations of the submitted Biodiversity Management Plan by avian ecology v4 (Dated 20/07/2020), has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include proposals for protective measures during the construction process; external lighting; and planting, including a timetable for implementation. The development shall thereafter be undertaken in accordance with the approved details.
13. The Solar PV Panels hereby permitted shall not be erected until details, on a suitably scaled plan, of the soft landscape works have been submitted to, and approved in writing by, the local planning authority. The details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved details.
14. All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the erection of the panels, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.
15. The Solar PV Panels hereby permitted shall not be erected until the full details of the works to the hedges including species adjacent to the residential properties, as shown on Figures 11 and 12 of the Glint and Glare Study Page Power Ltd v 4 dated 16th August 2019, have been submitted and approved in writing by the Local Planning Authority. The works be carried out in the first planting season after the written approval and thereafter retained and maintained.
16. The development hereby approved shall not be brought into use until the surface water drainage arrangements have been provided in full, in accordance with details which shall previously have been submitted to and approved in writing by the Local

Planning Authority. The approved measures shall thereafter be retained for the life of the development.

17. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment report v5 prepared by Calibro, and issued on 30th November 2020. The mitigation measures shall be fully implemented in accordance with the timing/phasing arrangements detailed within the Flood Risk Assessment. The approved measures shall thereafter be retained for the life of the development.
18. No development including any site clearance or groundworks of any kind shall take place within the site until a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the agreed scheme.
19. No external form of illumination of the site shall be undertaken other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits.
20. The installation or construction of all plant, equipment, and buildings shall be undertaken using a colour scheme which has previously been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved colour scheme.
21. Prior to the commencement of development on each relevant phase a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of wheel washing facilities and road sweeping measures with the respective obligations
 - (k) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (l) Details of the amount and location of construction worker parking.
 - (m) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To establish the commencement date for the 40 year operational life of the solar farm.
3. For the avoidance of doubt and in the interests of proper planning.
4. For the avoidance of doubt and to establish the duration of the planning permission and in the interests of the visual appearance of the landscape once the plant is redundant in accordance with policy DM2 of the Mid Devon Local Plan 2013 – 2033.
5. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.
6. To prevent mud and other debris being carried onto the public highway.
7. To provide adequate visibility from and of emerging vehicles.
8. To provide adequate visibility from and of emerging vehicles.
9. To ensure that adequate facilities are available for traffic attracted to the site.
10. To minimise the impact of the development on the highway network in accordance with the NPPF.
11. To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.
12. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033
13. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033
14. In the interests of the visual amenity of the area and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.
15. To protect the amenities of the adjoining residential properties and in accordance with policy DM2 of the Mid Devon Local Plan 2013 - 2033.
16. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.
17. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.
18. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained

for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.

19. To minimise light pollution in this rural area and in the interests of biodiversity and ecology, in accordance with policies S9 and DM2 of the Mid Devon Local Plan 2013 – 2033.
20. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan. 2013 - 2033
21. To minimise the impact upon the highway network and the neighbouring residential properties during the construction period.

INFORMATIVES

Protected Species

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

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

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Circulation of the Report: None

List of Background Papers: All documents submitted in relation to application 19/01679/MFULL and development plan documents