

REPORT OF THE HEAD OF PLANNING AND REGENERATION

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

**Reason for Report:**

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

**PROPOSED DEVELOPMENT**

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

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

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

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

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

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

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

**MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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