

# Land Parcel 9827, South East of Yarnton and North of Woodstock Road, Yarnton

14/00786/F

**Ward:** Yarnton, Gosford and Water Eaton    **District Councillor:** Cllr Gibbard  
Cllr Stevens

**Case Officer:** Paul Ihringer

**Recommendation:** Approval

**Applicant:** Roc Energy Ltd.

**Application Description:** Solar farm and associated works

**Committee Referral:** Major

**Committee Date:** 7<sup>th</sup> August 2014

## 1. Site Description and Proposed Development

- 1.1 The application site, located inside the Oxford Green Belt, comprises two adjacent fields, currently used for grazing, which cover an area of 18.25 hectares. The fields are bounded by mature hedgerows and trees. The site is located between the Oxford Canal to the east, the A44 to the south west and the railway line running between Oxford and Banbury to the west. It is also within close proximity to the south east edge of Yarnton and to the south west border of Kidlington's Garden City. The site and surrounding land is known locally as the Flit.
- 1.2 The two fields are in a relatively sensitive ecological area as they fall within the Lower Cherwell Valley Conservation Target Area. Furthermore, part of the southernmost field lies inside a District Wildlife Site and a Local Wildlife Site abuts the fields' south eastern boundary. It is also in relatively close proximity to two SSSIs (Rushy Meadows and Pixey & Yarnton Mead).
- 1.3 The Oxford Canal which abuts part of the eastern boundary is now a designated conservation area and has a footpath running along side it (F/P 265/33). The site is also identified as having 'medium' archaeological interest. Other notable features of an area that is largely flat are the fact that a large proportion of the site lies inside either flood zone 2 or 3 that there are two sets of overhead power lines which cut across the fields.
- 1.4 Planning permission is being sought for a large-scale (i.e. produces 5MW or more of energy) solar farm. As with other approved schemes within the district the projected life span of the solar farm is 25 years. A large proportion of the two fields would be filled with solar arrays comprising approximately 47,000 solar panels, which would be capable of generating around 12.5M/W of energy. The applicant estimates that at this level of production the needs of 3,125 households would be met. The arrays would have a height of 2.37m and would be aligned in rows running in an east-west direction and the panels would be angled at 15° from the horizontal to maximise energy generating potential.

- 1.5 In addition to the arrays, 8 LV Kiosk compounds (aka inverters), comprising a metal kiosk, a switch base and a transformer, would be constructed at strategic positions within the site. They would be linked, as would a larger sub-station facility to the access to the A44 via a track which would largely run down the western side of the site.
- 1.6 To prevent wildlife interfering with the equipment, and for security purposes, the site would be bounded by a 1.9m high security fence. For added security, cctv cameras would also be installed. To mitigate the visual impact of the development the existing hedgerows bounding the site would be strengthened where necessary.
- 1.7 The applicant estimates that it would take 15-18 weeks to complete the scheme and that on average there would be 4-5 hgv deliveries each day. A temporary site compound would be constructed within the site which would be large enough to allow vehicles to turn within the site allowing them to leave the site in a forward gear.
- 1.8 The only other planning history relating to this site, which is of particular relevance to this case, is the applicant's screening opinion (13/00049/SO refers) which concluded that an EIA was not required for the proposed development but did highlight areas which would need to be addressed.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 27<sup>th</sup> June 2014.

1 letter has been received. The following issues were raised

Material planning comments:

Potential noise (ensure buildings are far enough away from residential properties)

Ensure local wildlife is not unduly affected

Ensure that there is no glare

Highway safety concerns (accident black spot)

## **3. Consultations**

- 3.1 **Yarnton Parish Council:** Object on the following grounds:

"The proposal is in the Green Belt and as such would involve 'industrialisation' of the distinct green corridor which exists between Yarnton and Kidlington. This separation has always been heavily defended. The scale of the development so close to a conservation area and adjoining canal is such that the environmental concerns are considered to significantly outweigh those of renewable energy generation in this instance."

## **Cherwell District Council Consultees**

### **3.2 Conservation Officer:** No objections

“The site of this proposed ‘solar farm’ is next to the Oxford canal which is a designated conservation area. There is a grade two listed building (The Grapes Inn) on the Woodstock Road. This would be 315 metres from the site of the proposed development at the closest point.

“I do not consider that the proposed development would necessarily harm the character or appearance of the conservation area or the setting of the listed building. The positioning of plant and switch rooms, is such that they are unlikely to affect heritage assets. The fence would be set 4 m from the boundaries and the PV panels a further 3.5 m back from that. The border between the site and conservation area is screened by hedges and trees but I would suggest that there might be a need for further planting”.

### **3.3 Environmental Protection Officer:** No objections

### **3.4 Arboricultural Officer:** Comments as follows:

I generally have no arboricultural objections to the proposal however due to the presence of individual hedgerow / boundary trees I would expect the applicant to provide an arboricultural method statement undertaken in accordance with BS5837:2012.

### **3.5 Ecology Officer:** Comments as follows:

“Following my visit to the site this week, I have the following comments to add to my previous response:

“The area of the site designated as a District Wildlife Site (DWS) had been recently grazed and therefore few plant species were identifiable. However, when surveyed in 2010 this area was fairly species-rich (see attached citation).

“The mature oak and ash trees proposed for removal have high potential to support roosting bats, as well as a multitude of other wildlife. No bat activity surveys have been carried out on the trees to determine the presence or absence of this European protected species. Planning guidance states that the presence or absence of such species should be known before an application is determined. In this case it is unknown, but likely to be high. Therefore if these trees were to be removed some form of mitigation and alternative roosting provision would most likely be required.

“However, regardless of whether or not bats are present, the trees have high local biodiversity value and their removal would result in a net loss of biodiversity, which is not being compensated for in any way under current the current proposal. This is something that would be difficult to do anyway since the ecosystems present on veteran trees cannot be simply moved onto other, younger, trees.

“In terms of what can be done to ensure the application meets the NPPF baseline of ‘no net biodiversity loss’, the retention of all the mature trees would go some of the way to achieving this. There is still the question of the harm that will be done to the remnant meadow grassland in the DWS, since the installation of the solar panels will affect the grassland directly through disturbance, as well as indirectly through alteration to the grazing/management regime. Therefore, in this case I consider the most appropriate form of addressing the remaining biodiversity loss, whilst also providing biodiversity gain, would be to ensure the appropriate long-term management of the Local Wildlife Site (LWS) which is located directly adjacent to the site. There is the danger, with new homes being built next to the canal in that area, that the field will be sold off and used as ‘pony paddocks’ which would result in the complete loss of the important grassland in that field.

“Therefore I would like to see the following form part of any permission:

- The retention of the entire group of oak and ash trees currently proposed for removal, with a buffer area (which would be the size of the root protection zone as a minimum).
- The submission of a Landscape and Ecology Management Plan (LEMP) detailing how all the ecological features on the site will be managed (eg hedgerows, grassland, mature trees) in order to maximise the biodiversity potential of the site within the constraints of the solar farm.
- An agreement to the long-term appropriate management of the LWS and a management plan detailing how this will take place and when. (The site needs management similar to that at present, which is occasional cattle grazing).

“Without these measures I do not consider that the application meets NPPF standards and should be refused.”

### 3.6 **Landscape Officer:** Comments as follows:

“I generally agree with the conclusions of Enderby Associates' LVIA. Aspect Landscape Planning's addendum provides a fair visual representation of the development at certain viewpoints. However, there are matters of concern that must be addressed if the development is to be acceptable in terms of landscape character and mitigation of the development. With the site's physical containment by boundary vegetation, it is not visually prominent from vehicle receptors on the A44, nor for walkers, cyclist and canal boat users of the canal corridor during the summer months when there is extensive leaf cover. Glimpsed views are experienced. However, there is an appreciation of the site's amenity for receptors during the winter months, for example at viewpoints indicated on the canal towpath where the solar farm will be experienced from these viewpoints and will appear harmful to the rural character.

- I am concerned about the continuation the strong character of the vegetated field boundaries, and the visual/physical containment that this

provides to the site - as indicated by the various photographically recorded viewpoints - with the level land and contrasting irregular tree/hedgerow silhouette against the skyline. The proposal to maintain the hedgerows at 3.5 m on all boundaries will result in a very formal outline, which is against the landscape character that I wish to retain. A minimum 3.5 m above ground level on a 2 -3 year rotational basis would be appropriate in certain areas because this will allow different stages of growth: a structure which is visually acceptable. I would accept that hedgerow will require flailing on the sides as this will encourage dense side growth. Existing trees within the hedgerows are to be retained to grow to their mature heights.

- The remnant field boundary of trees and vegetation in field 1 should be retained to visually mitigate the expanse of solar panels old boundary is to be planted as a new hedgerow and link with a retained area on the eastern boundary that is designated as a District Wildlife Site. This area must be protected with robust Heras fencing as a construction exclusion zone.
- It is important to ensure that the site is managed appropriately for the retention and enhancement of the internal and boundary hedgerows, the hedgerow buffer zones, the existing trees and the District Wildlife Site, and including the proposed landscaping. In this regard a written landscape and ecological management plan is essential and must be submitted for our consideration.
- An arboricultural survey and report of all existing trees on and off site, within an influencing distance of the construction of the development is to be submitted by a fully qualified arboriculturalist. Root protection areas are to be indicated and method statements relating to constructor's access and future maintenance routes, switchgear room and substation, are required - in accordance with BS 5837: 2012.

“The landscape mitigation proposed in the photomontages is appropriate. A detailed landscape plan is required. The future maintenance access routes are to avoid the hedgerow tree route protection areas/buffer zones, and indicated as such on a layout drawing.”

## **Oxfordshire County Council Consultees**

### **3.7 Highways Liaison Officer:** No objections subject to condition:

“Careful management of vehicular traffic during the construction phase will need to occur this should be possible within the Construction Traffic Management Plan (CTMP) by limiting deliveries to outside the network peak times, this has been highlighted in the applicants Design and Access Statement, Planning Statement and Traffic Management Plan that no deliveries shall take place between 7.00 – 9.30am and 15.00 – 18.00pm.

“There is likely to be an intensification of use of the site compared to the current situation. However this intensification will be at its peak during the

construction phase, once constructed the vehicular movements associated with the proposal will be minimal.

“The Highway Authority has recommended that the existing access be improved so as to allow for a HGV to access and egress the site, furthermore it is recommended that the existing gate be set back further so as to allow for a HGV to “wait” off the highway whilst the gate is opening.

“In addition to improvements to the existing access it is recommended that temporary warning signs be erected so as to inform drivers of the fact there will be HGV vehicles accessing and egressing the site.

“The Solar Farms panel will be facing southward; there was a concern from the Highway Authority that this would have the potential of dazzling drivers along the A44 Woodstock Road. However, the applicant has demonstrated that additional vegetation will be planted on the site boundary so as to prevent this.

“Furthermore given the height of the solar panels, the angle in which they will be set and the vegetation boundary improvements, it is the Highway Authorities view that this aspect would not be detrimental to highway safety.”

### **3.8 Minerals and Waste Policy Officer:** No objections subject to condition:

“Published BGS mapping shows the proposal site to be underlain by deposits of sand and gravel. A borehole to the north of the site recorded 2.8 metres depth of sand and gravel below 1.0 metres depth of overburden. From the information available, the site may contain a potentially commercially workable deposit of sand and gravel.

“The saved policies of the Oxfordshire Minerals and Waste Local Plan include the Cassington – Yarnton area for sand and gravel working but do not include this site as a specific area for mineral working. Preparation of the new Minerals and Waste Local Plan is at an early stage. The consultation draft Core Strategy (February 2014) includes an area of search for sand and gravel working at Eynsham/Cassington/Yarnton but the application site lies outside it. The application site has not been put forward by either the landowner or a mineral operator as a site to be considered for identification in the Minerals and Waste Local Plan.

“The proposed development needs to be considered against saved Oxfordshire Minerals and Waste Local Plan policy SD10 on protection of mineral resources. This policy dates from 1996 but it is consistent with the NPPF (paragraph 143, bullet 3). Under policy SD10, development which would prejudice the working of mineral deposits should not be permitted unless it can be shown that the need for the development outweighs the economic and sustainability considerations relating to the mineral resource.

“The planning statement accompanying the application states that the proposed development would be temporary and that the structures involved would be removed after 30 years and the site returned to agricultural use. If this is the case, the development would not cause permanent sterilisation of the mineral deposits in the site. Furthermore, the development would not

prejudice the delivery of adopted policy for mineral supply in Oxfordshire and it is unlikely to conflict with emerging new policy. It would be unreasonable to prevent the development on the grounds of prematurity in relation to the emerging new Minerals and Waste Local Plan. Accordingly, there are no justifiable grounds for objection to the proposed development on minerals policy.”

**3.9 Archaeology Officer:** No objections subject to condition:

“The site is located in an area of archaeological potential identified as cropmarks and though two geophysical surveys and a trenched evaluation. A LiDAR survey of the area shows that some of these cropmarks survive as low earthwork banks. The geophysical survey recorded a number of features related to the cropmarks as well as two distinct areas of settlement on the eastern side of the application area. These would appear to be prehistoric settlement and take the form of a number of curved enclosures and linears.

“The evaluation recorded a number of ditches and pits across the site which are likely to be related to these areas of settlement. The majority of the features identified in the evaluation were undated but Roman pottery was recovered from a small number of the features. The impact of the solar panels themselves will be fairly limited but the construction of the access tracks and excavations for cable runs, transformer sites and other areas of ground disturbance will have a negative impact on these archaeological features.

“We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be undertaken ahead of and during the period of construction. This can be ensured through the attachment of a suitable negative condition as suggested above.

“If the applicant makes contact with us at the above address, we shall be pleased to outline the procedures involved, provide a brief upon which a costed specification can be based, and provide a list of archaeological contractors working in the area.”

**Other Consultees**

**3.10 Natural England:** No objections

“Natural England does not consider that this application poses any likely or significant risk to those features of the natural environment<sup>1</sup> for which we would otherwise provide a more detailed consultation response and so does not wish to make specific comment on the details of this consultation.”

**3.11 Environment Agency:** The Environment Agency has a holding objection, discussion are on-going to find a resolution.

**3.12 London Oxford Airport:** No objections subject to informative

**3.13 Canal and River Trust:** No objections subject to condition and informative

## Other Interested Organisations

### 3.14 Oxford Green Belt Network: Objects and comments as follows:

"The above application has been considered by the Committee of the Oxford Green Belt Network and we wish to object to it on the grounds set out below.

"The site of the proposed solar farm is in the Oxford Green Belt where there is a presumption against this large scale industrial kind of project in the interest of preserving the openness of the Green Belt, its visual amenities and biodiversity. The arrays of solar panels, compound, equipment, access facilities and fencing that are proposed as part of the scheme would have a hugely adverse impact on the openness of the Oxford Green Belt and the purpose of including this land within it.

"The site is within the "Kidlington Gap", a relatively narrow portion of the Green Belt that separates Yarnton and Kidlington from the city of Oxford. Allowing the solar farm would reduce that important space between these places contrary to one of the five fundamental purposes of Green Belt policy, that of preventing the merging of settlements. It would also encroach on open countryside contrary to another of those basic purposes. We have noted in Cherwell District Council's new Local Plan, currently at the EIP, that the Council is determined to protect the openness of the Kidlington Gap as part of its Green Belt policy.

"The site of the proposed solar farm, which is next to the Oxford Canal, would have a negative effect on the visual and other amenities of the canal which is now a Conservation Area. It would detract from the public's enjoyment of the canal corridor as a result of the fencing and other built elements that are proposed.

"The Kingsbridge Brook flows close to the site raising floodplain and drainage issues. We are concerned also over the likely impact of a large solar farm on local wildlife and habitats.

"Paragraph 91 of the NPPF refers to the fact that elements of many renewable energy projects, when located in the Green Belt, will comprise inappropriate development. We believe that this is the case here at Yarnton and that any benefits from the energy produced do not amount to the very special circumstances needed to overcome the barrier of inappropriateness. Government guidance in the form of the DCLG's "Planning practice guidance for renewables and low carbon energy" (July 2013) makes it clear that the case for renewable energy does not automatically override environmental protection and it is our view that the need for environmental protection, including the need to protect the openness of the Green Belt, heavily outweighs any suggested benefits. We have noted that the Minister, Gregory Barker, in a letter of October 2013, expressed his opinion that the focus in solar energy should now be on roof space and brownfield sites, observing that "inappropriately sited solar PV especially in the countryside is something that I take extremely seriously and am determined to crack down on".

"For these reasons we believe that the application for this solar farm south east of Yarnton should be refused."



### 3.15 CPRE: Object on the following grounds:

“CPRE Oxfordshire believes renewable is desirable, but not an unacceptable cost to the countryside or to the economy. In this particular case we object to the proposal on the following grounds:

- 1 **Detrimental impact on the local landscape** (reference policy ESD5 of draft (*sic*) Local Plan). However much a solar farm is dressed up with rural imagery, it is essentially an industrial unit intruding on the character and essence of the surrounding agricultural land. The application talks of on-site equipment rooms, plant, security fencing and thermal imaging system and associated works. These all contribute towards an overall feel of industrialisation which is inappropriate to the site. Further, what is not detailed is an assessment of the visual and environmental impact of the necessary grid connections, whether overhead or underground, duly confirmed by the appropriate utility company.

In October 2013 Minister Gregory Barker commented in a letter that the focus in solar energy should now be on roof space and brownfield sites, and that “inappropriately sited solar PV especially in the countryside is something that I take extremely seriously and am determined to crack down on”. In this respect we applaud Cherwell’s current initiative with the Low Carbon Hub to develop solar power in Bicester by installing solar panels on business roofs.

- 2 **Inappropriate use of the Oxford Green Belt** (policy ESD14 of draft (*sic*) Local Plan). Concerns over the impact on the landscape is compounded by the fact that the proposed site lies within the Oxford Green Belt, and at one of its most sensitive points within the “Kidlington Gap”. In addition the site will have a negative impact on the visual and other amenities of the Oxford Canal Conservation Area.

We quote the NPPF in this respect. “The Government attaches great importance to Green Belts. The fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. When located in the Green Belt, elements of many renewable energy projects will compromise inappropriate development”. We consider this particular application is just such a case in point.

- 3 **Need to protect agricultural land for food production** (reference paragraph B.199 of draft Local Plan). The UK currently imports 40% of the food it consumes and this proportion is rising (“Food Matters: Towards a strategy for the 21<sup>st</sup> Century”). As global food security becomes an increasingly important issue; usable agricultural land should not be wasted by giving it over to what are essential inefficient renewable energy schemes.

“For all the above reasons CPRE believes strongly that this application should be refused.”

## **4. Relevant National and Local Policy and Guidance**

### **4.1 Development Plan Policy**

Adopted Cherwell Local Plan (Saved Policies)

GB1: Development in the Green Belt

C2: Development affecting protected species

C4: Creation of new habitats

C7: Landscape conservation

C28: Layout, design and external appearance of new development

C31: Compatibility of proposals in residential areas

### **4.2 Other Material Policy and Guidance**

National Planning Policy Framework

Planning Practice Guidance

Planning Practice Guidance for Renewable and Low Carbon Energy (Jul. 2013)

UK Solar PV Strategy Part 1: Roadmap to a Brighter Future (Oct. 2013)

UK Solar PV Strategy: Part 2 (Apr. 2014)

Submission Cherwell Local Plan (January 2014)

The Proposed Submission Local Plan was published for public consultation in August 2012. A further consultation on Proposed Changes to the draft plan was undertaken from March to May 2013. On 7 October 2013, the Draft Submission Plan was approved by the Council's Executive. The Plan was endorsed at Full Council on 21 October 2013 as the Submission Local Plan.

The Plan has now been formally 'Submitted' to the Secretary of State for Communities and Local Government for Examination, and therefore carries more weight than has been previously attributed that can be attached to the Plan will increase. However, it will not form part of the statutory Development Plan until the Examination process is complete and the Plan is formally adopted by the Council. The following Policies are considered to be relevant:

ESD5: Renewable Energy

ESD13: Local Landscape Protection and Enhancement

ESD14: Oxford Green Belt

ESD17 The Oxford Canal

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- The Principle

- Agricultural Quality of the Land
- Landscape Impact
- Impact on the Historic Environment
- Highway Safety
- Residential Amenity
- Ecology
- Flood Risk
- Other Matters
- Very Special Circumstances
- The Planning Balance

5.2 The National Planning Policy Framework (NPPF) provides positive encouragement for renewable energy projects. One of the core planning principles set out in paragraph 17 is to *“support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy)”*.

5.3 Paragraph 93 notes that *“Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development”*. This constructive attitude to renewable energy is reiterated in paragraph 14 which states that any adverse impacts of approving an application, which is considered to be sustainable, would have to significantly and demonstrably outweigh the benefits.

5.4 Paragraph 97 goes on to state that local planning authorities should *“recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources”* and that they should:

- *have a positive strategy to promote energy from renewable and low carbon sources;*
- *design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts*
- *consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources; and*
- *identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.”*

5.5 Furthermore, paragraph 98 of the NPPF advises that when determining planning applications, local planning authorities should:

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

- *approve the application, unless material considerations indicate otherwise, if its impacts are (or can be made) acceptable...*

5.6 The NPPF also recognises the need to accord with European legislation. Paragraph 2 states that planning policies and decisions must reflect, and where appropriate, promote relevant EU Obligations and Statutory requirements. EU Directive 2009/28/EC necessitates member countries to increase renewable energy generation.

5.7 Given that of the adopted Cherwell Local Plan (CLP) was written in the mid 1990s there is little mention of the renewable energy in the Council's Development Plan. By contrast the Submission Cherwell Local Plan (January 2014) (SCLP) makes specific mention to renewable energy and reflects the positive approach of the NPPF. Policy ESD5 sets out a list of criteria against which applications renewable energy should be assessed - they reads as follows:

- Landscape and biodiversity including designations, protected habitats and species and Conservation Target Areas
- Visual impacts on local landscapes
- The historic environment including designated and non designated assets and their settings
- The Green Belt, particularly visual impacts on openness
- Aviation activities
- Highways and access issues and;
- Residential amenity

5.8 Paragraph B.199 which supports Policy ESD5 also seeks to direct solar farms away from the district's highest quality agricultural land. Using DEFRA's Agricultural Land Classification, land is put in to one of six categories (1, 2, 3a, 3b, 4 and 5). Grade 1 and 2 land, the most fertile, is considered to be too good to be used for renewable energy.

5.9 The recently published Planning Practice Guidance (PPG) reiterates this point but goes further by directing developers to look at previously developed and non-agricultural land over greenfield land, when bringing forward large scale solar schemes. Paragraph: 013 Reference ID: 5-013-20140306 of the PPG states that:

*Particular factors a local planning authority will need to consider include:*

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;*
- *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...*

\* Officer emphasis

- 5.10 Although the second bullet point is somewhat ambiguous, Inspectors for two recent appeals (Inspectorate references: APP/V2255/A/14/2212592 and APP/D3505/A/13/2204846) have concluded that the word *necessary* requires a developer to provide a sequential test to support their application, which demonstrates that there are no more suitable alternative sites (brownfield and then greenfield) within the vicinity. The Inspectors also concluded that the search area should not be confined by district boundaries.
- 5.11 In respect of both appeals, the Inspector was very dismissive of the lack of evidence provided by the developer to justify the use of a greenfield as apposed to a brown field site and agricultural land of an inferior quality. The Inspectors set a very high bar in respect of what was needed to demonstrate that the proposal was *necessary*. Both appeals were dismissed.
- 5.12 Caution should obviously be exercised with the interpretation of new guidance, as it may later become established practice that a less onerous exercise be required by Inspectors dealing with subsequent appeals. Indeed there have been at least two other post PPG decision (Inspectorate references: APP/C3105/A/13/2207532 and APP/D0840/A/14/2212325) where the Inspector did not require the applicant to undertake the *necessary* test. It is unfortunate that the PPG does not set out clear guidelines as to best practice.
- 5.13 Of particular significance to this current application was the first of the two cases referenced above which relates to a site in Cherwell. The Rowles Farm appeal was for a scheme capable of producing 8.5MW of energy - the site is located to the south of Weston on the Green and the A34. Both the Rowles Farm site and this current proposal are located inside the Oxford Green Belt.
- 5.14 Paragraph 91 of the NPPF states that many renewable projects would constitute inappropriate development in the Green Belt. Officers have determined that the openness of the Green Belt would be compromised, given the nature of the development. As with the Rowles Farm application, the applicant recognises that in order to overcome the policy objection they have to submit a compelling very special circumstances (VSC) case in accordance with paragraphs 87 and 88 of the NPPF to support their application. The Inspector ultimately concluded, in respect of Rowles Farm, that the harm to the Green Belt would be outweighed by the sustainability credentials of the proposal and therefore allowed the appeal.
- 5.15 The rest of this report will evaluate the material planning considerations which feed into the planning balancing exercise and will seek to establish whether any benefit (VSC) identified are sufficient to overcome the policy objection.

#### **Agricultural Quality of the Land**

- 5.16 As suggested previously, it is now accepted that unless there are exceptional circumstances, land identified as Best Most Versatile (BMV) agricultural land will be discounted for solar farm schemes. As the two fields are amongst the poorest agricultural land in this part of the district (Grade 4), the proposal therefore passes this most fundamental of tests.

#### **Landscape Impact**

- 5.17 This is not a sensitive part of the district and is not constrained by any landscape designations. As the site is also well screened from most local

vantage points it is unsurprising that the Landscape Officer's (LO) is relatively positive when assessing the proposed development. Alongside this views into the site are already limited, and the applicant has put forward a mitigation strategy which will address the key view points that are still of a concern.

### **Impact on the Historic Environment**

- 5.18 The landscaping scheme sought by the Landscape Officer would further limit the impact the proposal will have on the setting of the Oxford Canal Conservation Area. The Conservation Officer has concluded that the setting of the Canal would not be compromised but also that the closest listed structure (The Grapes Inn is more than 300m from the application site) would also not unduly affected. Based on this assessment, it is concluded that the proposed development accords with the relevant NPPF guidance contained within section 12 of Delivering Sustainable Development.

### **Highway Safety**

- 5.19 Although the concern of the neighbouring resident is noted (there have been accidents along this stretch of the A44), the Highways Liaison Officer (HO) has concluded that any danger would be limited to the construction phase, and that providing appropriate conditions are imposed, highway safety would not be compromised. For example, the traffic management plan will restrict hgv movements on to the site so that they occur outside the rush hour. Although the HO refers to the potential glare affecting drivers on the A44, modern solar panels are designed so that there is limited glare and furthermore the panels will also be well screened from the road anyway. The proposal therefore accords with Government guidance contained within the NPPF.

### **Residential Amenity**

- 5.20 Although residents living within the built-up limits of Yarnton or Kidlington would not experience any loss of amenity, there are couple of properties located on the boundary of the site. However, the LO has not questioned the applicant's landscape consultant's assertion that the harm to these residents will be relatively negligible in terms of visual impact given that the boundaries in question would screen the majority of the development.

- 5.21 Although there would be some disturbance in respect of noise during the day for the closest neighbouring properties this will be largely restricted to the construction phase, which is due to last for just 15-18 weeks. The development therefore accords with Policy C31 of the CLP.

### **Ecology Flood Risk**

- 5.22 As the comments submitted by the Ecology Officer attest this is quite a sensitive site given that it abuts a Local Wildlife Site and part of the site is designated as a District Wildlife Site. The Ecology Officer was therefore disappointed that the applicant was proposing to remove eight mature trees within one of the fields which had the potential to be used by roosting bats. Furthermore the ecology enhancements out forward as part of the proposal were considered to be woefully inadequate and failed to comply with Government guidance contained within the NPPF. She was however less concerned about the impact on the District Wildlife Site which was considered to be of relatively limited value.

- 5.23 Following discussions with the applicant's agent it was agreed that the eight trees would be retained and that a management strategy would be produced and implemented by the applicant to ensure the long term protection of adjacent Local Wildlife Site. As this was the Ecologist preferred method of enhancing the local environment, these concessions were sufficient for the Ecologist to withdraw their objection to the scheme.

#### **Flood Risk**

- 5.24 Although the Environment Agency has a holding objection, the issues flagged are not considered to be insurmountable. The applicant is working with the Environment Agency to agree an appropriate strategy. Members will be given an update on any progress prior to the Planning Committee.

#### **Other Matters**

- 5.25 The CPRE and the Oxford Green Belt Network make a number of points which are addressed elsewhere in the report. They do however make a specific point, which has not been touched upon, about the added importance attributed to the part of the Green Belt lying between Kidlington, Yarnton and Oxford. Paragraph B257 of the SCLP states the following:

*It is essential that the impact on the Green Belt is minimised, therefore priority will be given to locations that lie adjacent to existing development, avoid the coalescence of settlements, **protect the vulnerable Kidlington Gap\*** and otherwise have the least impact possible on the Green Belt.*

\* Officer emphasis (the application site makes up part of the Kidlington Gap)

- 5.26 On discussing this point with the Policy Team, it was confirmed that the rationale for this status was to guard against coalescence between the settlements. However, it was conceded that given the temporary nature of the development, the function of the Kidlington Gap would not be undermined. As with all solar farm development, the temporary change of use does not mean that once the permission lapses, the land is any more vulnerable to more permanent built development such as housing.

#### **Very Special Circumstances**

- 5.27 The applicant acknowledges that the development is contrary to Green Belt Policy and has submitted a VSC case. Their case is naturally centred on the contribution the solar farm will make to renewable energy targets. As already stated the 12.5MW generating capacity is enough to meet the needs of 3,125 homes.
- 5.28 It is also argued that the site is very well contained with good existing screening along all boundaries. The surrounding area is described as visually 'busy' and damaged with main roads, a railway, electricity pylons and industrial premises nearby. It is therefore maintained that the quality of the surrounding landscape is considered to be quite low.

- 5.29 The applicant also makes the following points:

- Would not result in unrestricted sprawl as the site is well contained at the very edge of the Green Belt
- Neighbouring towns would not be merged
- The development would further safeguard against encroachment by supporting a rural business.
- The development is temporary in nature
- Site could be continued to be used for agricultural purposes
- There would be no impact on the setting or special character of historic towns
- The regeneration of derelict and other urban land would not be affected – such land could be used for housing or employment uses

5.30 The points set out in 5.28 do not in the opinion of officers constitute VSC differentiating the fields from other potential sites. The last point for instance runs contrary to guidance contained within the PPG which directs developers to consider brownfield before greenfield sites. It is however acknowledged that brownfield sites, in the current climate, are only ever likely to come forward for housing.

5.31 Significant weight can be attributed to the sustainability credentials, and the limited harm to the surrounding landscape. Unsurprisingly, given that the developer is the same as for the Rowles Farm site there is commentary on how the two sites compare and contrast. It is argued that the current site has less of an impact on the Green Belt and that therefore the Rowles Farm appeal decision sets a strong precedent.

### **The Planning Balance**

5.32 Although the Government is promoting brownfield sites over greenfield sites, it does not mark the end of large solar development on agricultural land. This was made clear in a letter from Gregory Barker, the Minister of State for Energy and Climate Change, to local authorities (22 April 2014) when he acknowledges that *'There is still a place for larger-scale field-based solar in the UK's energy mix'*.

5.33 It is however clear, in changing the focus for future solar development, that the Government requires decision makers to scrutinise, more closely, proposed schemes in the open countryside.

5.34 The application site, aside from being partially located in a flood zone 2/3 and in close proximity to areas of recognised ecological interest, does have a number of positives running in it's favour distinguishing it from other possible sites: the landscape impact would be negligible; there are no highway safety issues and there is a direct access on to the A44; the impact on any heritage assets, notably the Oxford Canal, will be limited; there are no significant residential amenity concerns; and the flooding and ecological issues can be resolved by condition. Most significantly of all, it will not result in the loss of BMV agricultural land.

5.35 Notwithstanding the above, the site is located in the Green Belt and if you were to apply the *necessary* test, it is reasonable to assume that whilst other possible sites (on non BMV agricultural land) outside the Green Belt may be constrained in other ways, they would nonetheless, in most cases, be more preferable options.



5.36 However without greater clarity in the form of case law or further direction from the Government (there is no specific mention of the Green Belt in the PPG guidance relating to solar farms), the Rowles Farm appeal decision sets a strong precedent. Although it is somewhat invidious to directly compare the merits of two different sites particularly given the number of material considerations that have to be taken into account, officers are of the opinion that the application site should be viewed no less favourably than the Rowles Farm development, which is in a much more exposed location.

5.37 So whilst this is a finely balanced recommendation, it is ultimately concluded that the VSC demonstrated by the applicant are sufficient to overcome the Green Belt policy objection, and that the application is therefore recommended for approval. The development is considered to accord with Government guidance contained within the National Planning Policy Framework, the Planning Practice Guidance, Policies GB1, C2, C4, C7, C28 and C31 of the adopted Cherwell Local Plan and Policies ESD5 and ESD13 of the Submission Cherwell Local Plan (January 2014).

#### **Consultation with applicant**

5.38 There were a number of issues that arose throughout the application process, most notably in connection with flood risk and ecology. The applicant was made aware of the concerns raised and this allowed sufficient time for an appropriate solution to be found.

## **6. Recommendation**

**Approval**, subject to:

- a) The applicant successfully addressing the objection raised by the Environment Agency;
- b) Subject to referral to the Secretary of State;
- c) The following conditions and any additional conditions required by the Environment Agency:

1 That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the planning application forms and the following plans and documents:

13214/SLP01  
ROC1004-1001v1.5

ROC1004-1003v1  
ROC1004-1004v1.1  
ROC1004-1005v1.2  
ROC1004-1006v1.1  
ROC1004-1010v1.1  
312/P1

Planning Statement produced by Town Planning Services Limited (dated May 2014)

Design and Access Statement produced by Town Planning Services Limited (dated May 2014)

Extended Phase 1 Habitat Assessment - produced by Enims Environmental Excellence (dated July 2013)

Bat Survey Report - produced by Enims Environmental Excellence (dated November 2013)

Bat Tree Assessment Survey Report - produced by Enims Environmental Excellence (dated October 2013)

Desk-based Heritage Assessment produced by Thames Valley Archaeological Services (dated August 2013)

Flood Risk Assessment Revision B (produced by Gyoury Self (dated July 2014)

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority, and in accordance with Government guidance contained within the National Planning Policy Framework.

- 3 The permission shall expire no later than 25 years from the date when electricity is first exported from any part of the array to the electricity grid network ('First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than 1 calendar month after the event.

Reason - In order to safeguard the amenities of the area and protect the rural character of the landscape and to comply with Policies C7 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 4 Not later than 24 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted to and approved by the Local Planning Authority, such scheme to include the management and timing of any works and traffic management plan to address likely traffic impact issues during the decommissioning period. The approved scheme shall be fully implemented within 12 months of the expiry of this permission

Reason - To ensure the environment is protected during decommission in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 5 That full details of the cctv system shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in

accordance with the detail agreed.

Reason - In order to safeguard the amenities of the area and protect the rural character of the landscape and to comply with Policies C7 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 6 Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect biodiversity or adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason - To ensure the environment is protected during construction in accordance with Policies C2 and ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 7 Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 8 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs 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 current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 9 Prior to the commencement of the development hereby approved, a schedule of landscape maintenance for a minimum period of 5 years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the landscape maintenance shall be carried out in accordance with the approved schedule.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 10 Except to allow for the means of access and vision splays the existing hedgerow along the south west boundary of the site shall be retained and properly maintained at mature height, not less than 3.5 metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 11 The existing hedgerows along all boundaries of the site other than the south west boundary shall be retained and properly maintained at mature heights, not less than [3.5] metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 12 a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
- b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a "retained tree" is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the completion of the development.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 13 Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 14 Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

- 15 A Construction Traffic Management Plan shall be submitted and approved in writing by the Local Planning Authority once contractors are appointed, and prior to commencement of development.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

- 16 Prior to the commencement of the development hereby approved, full details of a scheme to prevent any surface water from the development discharging onto the adjoining highway shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage scheme shall be implemented and retained in accordance with the approved details.

Reason - To ensure satisfactory drainage of the site in the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

- 17 Prior to the commencement of the development, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare a first stage archaeological Written Scheme of Investigation, relating to the application area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

- 18 Following the approval of the Written Scheme of Investigation referred to in condition 1, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason - To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the National Planning Policy Framework.

- 19 No external lighting shall be installed within the site area unless agreed in writing with the Local Planning Authority.

Reason - In order to safeguard the amenities of the area and to ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

### **Planning Notes**

- 1 The applicant/developer is advised to contact Osi Ivowi on 01908 302 591 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust.
- 2 If the developer uses a crane during construction they are advised to liaise with London Oxford Airport in accordance with the British Standard Institute Code of Practice for the Safe Use of Cranes (BS7121).

### **Statement of Engagement**

In accordance with the Town and Country Planning (Development Management

Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.