

**Plot 1,  
Land North West of Golf Club,  
Mill Lane,  
Kirtlington**

**15/01301/F**

**Ward:** Kirtlington

**District Councillor:** Cllr Holland

**Case Officer:** Stuart Howden

**Recommendation:** Approval

**Applicant:** Mr Kasmir Johai

**Application Description:** Extension of the ground mounted PV array to include an additional 50kWp (200 module) array

**Committee Referral:** Site over 1 hectare

**Committee Date:** 26.11.2015

## **1. Site Description and Proposed Development**

- 1.1 The site comprises an area of agricultural land within an agricultural parcel of land to the south east of Mill Lane, to the west of the built up limits of the village of Kirtlington (by approximately 500 metres) and to the north west of Kirtlington Golf Club. The site is situated on a valley which gently slopes westwards towards The Oxford Canal and River Cherwell. A two storey agricultural building constructed from stone and slate is situated in the northern corner of the site. The south side of the site accommodates approximately 200 solar modules. Cabling connects the existing panels to a solar inverter cabin and then a power line to the west of the existing solar array. Access to the site is taken via a gate leading from Mill Lane.
- 1.2 Planning permission is sought for 200 additional solar modules to the east of the existing solar modules on the site and this would therefore result in 400 solar modules on the site overall. The proposed modules would be connected together and the array would be connected to the existing array. The proposed solar array would extend off the 11 rows of the existing solar array. The system would be connected to the existing power line and it is proposed to support the local network. The maximum height of the system above the ground would be approximately 0.6 metre and the modules would be set at a 30 degree angle from ground level. The modules proposed have a total rated power of 50 kilowatts-peak (kWp) and combined with the existing modules, this would equate to a total rated power of 100 kWp. 2 additional inverters are proposed in the existing weather poof cabin on the site.
- 1.3 No listed buildings are within close proximity to the site. The site is not within a Conservation Area, but the Oxford Canal Conservation Area runs to the north west of the site (approximately 30 metres away from the site). Shipton-on-Cherwell Quarry Site of Special Scientific Interest (SSSI) is located approximately 2.3KM to the south west of the site, whilst Kirtlington Quarry SSSI is situated to the north east of the site by approximately 300 metres. The site lies adjacent to the Lower Cherwell Valley Conservation Target Area which is to the north of the site and there are records of several notable protected species within close proximity to the site including the Grey Wagtail, European Otter and Bluebell. A Public Footpath (270/11/70) runs adjacent to the north west boundary of the site along Mill Lane.
- 1.4 A screening opinion in September 2015 (15/00076/SO refers) concluded that an EIA was not required for the proposed development.

## 2. Application Publicity

2.1 The application has been advertised by way of neighbour letter, press notice and site notice. The final date for comment is 27<sup>th</sup> November 2015. 3 letters of objection have so far been received and the concerns raised are summarised below:

- The panels should be well screened;
- Highways safety issues as Mill Lane is a badly damaged;
- Land ownership concerns.

## 3. Consultations

3.1 Kirtlington Parish Council: No comments received to date.

### Cherwell District Council Consultees

3.2 Landscaping Officer: *“As long as the northern and eastern boundary hedgerows are retained and maintained to a minimum of 3 metres for reasons of mitigating the development from detrimental views from Mill Lane PRow and the golf course I have no objections. Trees on these boundaries are also to be retained for the same reason. The eastern boundary hedgerow is to be protected from damage with protective fencing in accordance with BS5837 during the period of installation”.*

3.3 Ecology Officer: No objections.

Conservation Officer: No comments received.

3.4

### Oxfordshire County Council Consultees

3.5 Footpaths Officer: No comments received.

3.6 Highways Liaison Officer: No objections.

### Other Consultees

3.7 Canal & River Trust: No objections.

## 4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

### Cherwell Local Plan (2011-2031) Part 1

PSD1: Presumption in Favour of Sustainable Development

ESD1: Minimising and Adapting to Climate Change

ESD2: Energy Hierarchy

ESD5: Renewable Energy

ESD10: Protection and Enhancement of Biodiversity and the Natural Environment

ESD11: Conservation Target Areas

ESD13: Local Landscape Protection and Enhancement

ESD15: The Character of the Built and Historic Environment

ESD16: The Oxford Canal

#### Cherwell Local Plan 1996 (saved policies)

- C4: Creation of new habitats
- C5: Protection of ecological value and rural character of specified features of value in the district
- C8: Sporadic development in the open countryside
- C14: Countryside Management Projects
- C28: Layout, design and external appearance of new development
- ENV1: Development likely to cause detrimental levels of pollution

#### 4.2 Other Material Policy and Guidance

National Planning Policy Framework (2012)

Planning Practice Guidance (2014)

Overarching National Policy Statement for Energy (EN-1) Planning (July 2011)

National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)

Planning and Climate Change; Supplement to Planning Policy Statement 1

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)

Solar energy; protecting the local and global environment – Written statement to Parliament (March 2015)

### 5. Appraisal

#### 5.1 The key issues for consideration in this application are:

- Relevant Planning History;
- The Principle of the Development;
- Agricultural Quality of the Land;
- Visual Impact and Effect on Landscape Character;
- Impact on Heritage Assets;
- Effect on Residential Amenity;
- Highways Safety;
- Ecological Impact;
- Other Matters.

#### **Relevant Planning History**

#### 5.2 10/01920/F – Ground mounted solar PV array – Approved

In 2011 an application for 218 solar modules covering an area of 620m<sup>2</sup> was approved, but only 200 of these have been installed to the south of the application site.

#### 5.3 11/01517/AGN – Agricultural shed unit – Approved – Not implemented

In 2011, an agricultural notification for the erection of an L shaped agricultural

building at the site for the storage of agricultural equipment and materials was approved. The approved building was proposed to have a height of approximately 8 metres and constructed from stone under a clay tile mono-pitch roof (see image below). However, a slate dual-pitched and a number of openings were installed, but these were later infilled.

#### 5.4 15/00789/F – Retrospective – Erection of Agricultural Building.

Planning consent was sought to remedy the planning breach referred to in paragraph 5.3 of this report and the application at the site was approved subject to conditions on 21<sup>st</sup> October 2015.

#### **The Principle of the Development**

5.5 National planning policy and Government guidance with respect to renewable energy developments has been fluid in recent months with the latest changes taking place in March 2015.

5.6 However, 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)”*.

5.7 Paragraph 93 of the Framework 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 of the Framework 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.

5.8 Paragraph 97 of the Framework 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.”*

5.9 Furthermore, paragraph 98 of the Framework 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...

5.10 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.

5.11 The Cherwell Local Plan Part 1 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 read 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.

5.12 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, are considered to be too good to be used for renewable energy.

5.13 The 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..."*

5.14 The proposed solar array is proposed to be connected to the national grid and it is noted in the submitted application documents that the proposed 200 modules have a total rated power of 50 kilowatts-peak (kWp) and combined with the existing modules, this would equate to a total rated power of 100 kWp. Although it is unclear how many houses this proposal could generate electricity for, as noted above the NPPF sets out that it is not necessary for an applicant to demonstrate the overall need for renewable or low carbon energy and that small scale projects should be recognised as providing a valuable contribution to cutting greenhouse gas emissions.

5.15 Officers therefore consider that the proposal would provide a valuable contribution to cutting greenhouse gas emissions and that the proposal could be acceptable in

principle, but this is subject to the proposal avoiding significant harm to the local landscape character, biodiversity, historic environment, residential amenity, and the highway network. These issues are discussed below.

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

- 5.16 Consideration of the agricultural quality of the land is more relevant when considering larger scale projects, and when assessing larger schemes land identified as Best Most Versatile (BMV) agricultural land should be discounted. The overall array as a result of this proposal would be of a relatively small scale and would cover a fairly limited area of the agricultural field it would be sited within as the majority of land within this field would still be maintained for agricultural purposes. Even so, the part of the site where the modules are proposed is not the highest quality agricultural land (Grade 3).

### **Visual Impact and Effect on Landscape Character**

- 5.17 Policy ESD13 of the Cherwell Local Plan Part 1 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: *“Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
  - *Cause undue harm to important natural landscape features and topography;*
  - *Be inconsistent with local character;*
  - *Impact on areas judged to have a high level of tranquillity;*
  - *Harm the setting of settlements, buildings, structures or other landmark features: or*
  - *Harm the historic value of the landscape.”*
- 5.18 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”*
- 5.19 Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the character of the open countryside.
- 5.20 Whilst the addition of 200 modules to the existing solar modules on the site would not result in a large scale array, the additional 200 ground mounted modules will have an impact on the character and visual appearance of the landscape surrounding the application site. However, simply being able to see the panels within the landscape is not a reason to withhold consent as evidenced by the presence of solar panels and farms around the country in rural locations. The impacts of the proposed development and whether the landscape has the ability to accommodate the ground mounted panels, having regard to the characteristics of the landscape and the cumulative impacts that will result from the proposed modules and the existing modules on the site, needs to be determined.
- 5.21 Officers are of the opinion that the proposed panels are of relatively small in terms of their height as they would be approximately 0.6 metre high. The existing panels on the site are of a similar height to the panels proposed and are not highly visible from the public domain of Mill Lane due to their relatively small height and because of mature landscaping along the highway boundary. The solar panels are only slightly

noticeable from Mill Lane through the main access into the site. These existing modules are also not highly visible from the Golf Course adjoining the site due to their relatively small height, the topography of the area and landscaping.

- 5.22 The proposed panels would effectively double the amount of panels on the site, but the overall array would cover a fairly limited area of the agricultural field it would be sited within as the majority of land within this field would still be maintained for agricultural purposes. The array would not be significantly more noticeable from the public domain as a result of this proposal given the landscaping surrounding the parcel of land the site is situated within, the topography of the area and due to the overall amount of relatively small modules which would be located within the application site.
- 5.23 The requirements of Policy ESD5 of the Cherwell Local Plan make no distinction between public or private views, only that renewable energy projects should not have a significant adverse visual impact upon the local landscape. Whilst, it is reasonable to conclude that the impact on publicly available views should be given greater weight given that they are more likely to be experienced by greater numbers of people, it is considered that the panels would be relatively well screened from most areas outside the parcel of land the site is located within, including the Kirtlington Golf Course which adjoins the site due to the small scale nature of the proposal, the topography of the area and the landscaping which surrounds the parcel of land the site is situated within.
- 5.24 The Council's Landscape Officer has no objections to the proposed modules as long as the northern and eastern boundary hedgerows are retained and maintained to a minimum height of three metres in order to mitigate the development from detrimental views from Mill Lane and Kirtlington Golf Course. In order to provide an effective screen to the proposed development and in the interests of the visual amenities of the area, this has been recommended as a condition.
- 5.25 The Landscape Officer has also noted that the eastern boundary hedgerow of the site should be protected from damage with protective fencing in accordance with BS5837 during the period of installation. As this hedging would contribute in screening the solar array, this has been recommended as a condition.
- 5.26 Whilst the existing and proposed array combined would have an impact upon the character of the countryside given that they would cover agricultural land and this is a modern feature. However, officers consider that the 200 additional solar modules would be relatively well screened from most areas outside the parcel of land the development site is situated within, including the public highway of Mill Lane. The overall array would be of a relatively small scale and it is considered that the landscape has the ability to accommodate the existing and proposed array together, and that the proposal would not have a detrimental impact upon the visual appearance or rural character of the countryside. Subject to the aforementioned conditions, the proposal is considered to be in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policies C8 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

### **Impact on Heritage Assets**

- 5.27 Section 12 of the NPPF (Conserving and Enhancing the Historic Environment) states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution of local character and distinctiveness. When considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation. Proposals that preserve those elements should be

treated favourably.

- 5.28 The Oxford Canal Conservation Area is approximately 30 metres to the north east of the site. Policy ESD16 of the Cherwell Local Plan Part 1 states that: *“The length of the Oxford Canal through Cherwell District is a designated Conservation Area and proposals which would be detrimental to its character or appearance will not be permitted”*. Saved Policy C5 of the Cherwell Local Plan 1996 also states that the Council will seek to protect the rural character of the Oxford Canal and the River Cherwell through the control of development.
- 5.29 The Oxford Canal is set in a valley and to the south west of The Oxford Canal are a number of large trees therefore the site itself is well screened from the Oxford Canal. Given the above and the relatively small height of the panels, officers are of the opinion that no proposed modules would be clearly visible from the public footpath which runs beside The Oxford Canal. It is considered that the overall array would not unduly affect the setting of the Conservation Area.

### **Residential Amenities**

- 5.30 The site is not within a residential area and there are no residential properties within close proximity to the site with the nearest properties being over 350 metres away to the west next to the Three Pigeons canal lock. The solar panels proposed are designed so that there is limited glare. Furthermore, solar array development does not give rise to the issues of noise emission, traffic generation, visual dominance and electromagnetic disturbance of reflected light. Given the above, officers consider that the proposal would not cause detrimental harm to neighbour amenity whilst the solar array is in operation. In terms of the installation period, this is a relatively small scale scheme and any disturbance caused is likely to be for a very limited period of time.

### **Highways Safety**

- 5.31 The site is accessed via Mill Lane and concerns have been raised by third parties in relation to the suitability of this highway. However, the Local Highways Authority have no objections to the proposal from a traffic and highway safety point of view. Whilst Mill Lane is in a poor state, officers consider that the proposal would not lead to a significant intensification of this highway given the fairly low scale movements associated with both installing and maintaining the array which is of a relatively small scale. It is therefore considered that the proposal would not cause adverse harm in terms of highway safety.

### **Ecological Impact**

- 5.32 The Ecology Officer has no objections to the proposal given the scale and nature of the proposal. It is therefore considered that the proposal would not cause adverse ecological harm.

### **Other Matters**

- 5.33 The matter of land ownership was raised by a neighbouring resident, but this is not a material planning consideration in this case.

### **Engagement**

- 5.34 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.



## Conclusion

- 5.35 Given the above assessment, officers consider that the proposal is acceptable and that the application is compliant with the policies outlined in section 4 of this report. The application is therefore recommended for approval and planning permission should be granted subject to appropriate conditions.

## 6. Recommendation

### Approval, subject to the:

- a) Expiry of the 21 day consultation deadline (27th November 2015);
- b) Following conditions:
  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 condition, the application shall be carried out strictly in accordance with the following plans and documents:

- Application form submitted with the application;
- Design and Access Statement submitted with the application;
- Risen Solar Technology (SYP240S ~ SYP260P) document received from the applicant's agent by e-mail on 24<sup>th</sup> September 2015;
- 2 E-mails received from the applicant's agent on 24<sup>th</sup> September 2015;
- Drawing Numbers: EN5279-D-02, EN5279-A-07 and EN5279-B-07 received from the applicant's agent by e-mail on 14<sup>th</sup> October 2015; and
- E-mail received from the applicant's agent on 14<sup>th</sup> October 2015;
- E-mail received from the applicant's agent on 11<sup>th</sup> November 2015.

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

3. No works or development shall take place until a scheme for the protection of the retained trees on the eastern boundary of the site has been agreed in writing with the Local Planning Authority. This scheme shall include the details and position of Tree Protection Barriers (Section 6.2 of BS5837) at the installation phase. The Tree Protection Barriers shall be erected prior to the installation of the solar panels and remain in place, and undamaged for the duration of the installation of the solar panels.

Reason – To ensure the continued health of retained trees and in the interests of the visual amenity of the area, to ensure the integration of the development in to the existing landscape and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. The existing hedgerow along the north and east boundaries of the site shall be retained and properly maintained at a height of not less than 3 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 Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. 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 in accordance with the requirements of Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 and Government guidance contained within the National Planning Policy Framework.

6. 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, biodiversity and to protect the rural character of the landscape in accordance with the requirements of Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

## **PLANNING NOTES**

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

## **STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 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. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.