

Case Officer: Shona King

Applicant: Generale Du Solaire

Proposal: Development of a ground mounted solar park incorporating the installation of solar PV panels, associated infrastructure and new access

Ward: Kidlington West

Councillors: Cllr Copeland, Cllr Rhodes and Cllr Tyson

Reason for Referral: Major development

Expiry Date: 30 October 2019

Committee Date: 24 October 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is for the installation of ground mounted solar PV panels along with a transformer and substation within an agricultural field. A new access from the A44 and internal tacks are proposed with new planting to the northern boundary of the site.

Consultations

The following consultees have raised **objections** to the application:

- Yarnton Parish Council, OCC Rights of Way

The following consultees have raised **no objections** to the application:

- CDC Landscape Officer, CDC Environmental Protection, OCC Highways, OCC Minerals and Waste, Thames Valley Police

The following consultees have not commented on the application:

- CDC Ecology, CDC Finance, Campaign to Protect Rural England.

One letter of objection has been received.

Planning Policy and Constraints

The application site is within located within the Oxford Green Belt. A public footpath runs from west to east along the northern boundary of the site. The site lies within Flood Zone 2 and parts of the site are within Flood Zone 3. It is also situated within a minerals consultation area and is noted to be Grade 4 (poor quality) agricultural land.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development including Green Belt
- Impact on the character and visual amenities of the area
- Highway safety
- Ecology

- Flooding

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

1.1. The application site is located to the south of Yarnton to the west of the A44. It comprises a relatively level, 9.6 hectare site currently in agricultural use. The main Banbury to Oxford railway line runs along the western boundary of the site and a public right of way, with footbridge over the railway, runs along the northern boundary of the site. The eastern and southern boundaries consist of mature hedgerows, the northern boundary is currently marked by a post and wire fence, and the western boundary to the railway by a post and wire fence with sparse hedges and mature trees.

2. CONSTRAINTS

2.1. The application site is within the Oxford Green Belt and lies within Flood Zone 2 with parts of the site within Flood Zone 3. It is also situated within a minerals consultation area and is noted to be Grade 4 (poor quality) agricultural land. As stated above a public right of way (PROW) runs along the northern boundary.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. Planning permission is sought for the installation of ground mounted solar PV panels with associated infrastructure (transformers, substation and access tracks) and a new access onto the A44. The solar panels are to generate 5MW of energy and are to be in a fixed position facing south on an east west axis with each array measuring approximately 2.8 metres in height. The two proposed transformer/substation buildings would be approximately 2.6m in height.

3.2. The proposals have been amended during this application with the repositioning of the access and internal tracks within the site so that the existing PROW is now unaffected by the development.

4. RELEVANT PLANNING HISTORY

4.1. There is no planning history directly relevant to the proposal

5. PRE-APPLICATION DISCUSSIONS

5.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
15/00016/PREAPP	Solar park including new access from Woodstock Road and ancillary infrastructure

- 5.2. It was concluded that insufficient information was provided with the enquiry to enable a definitive view to be given. However, it was recommended that any application was supported with information setting out *very special circumstances* to justify such development in the Green Belt and to address ecological, flooding landscape/visual impacts and highway safety issues.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was 25th July 2019, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. The Oxford Green Belt Network has commented on the proposal and their comments are summarised as follows:

- Impact on the openness of the Green Belt
- Encroachment into the countryside
- Inappropriate development in the Green Belt where *very special circumstances* do not overcome the harm
- Open spaces should be protected for mitigating climate change
- Cumulative impact on the Green Belt landscape with the solar farm on the opposite side of Woodstock Road
- Growing pressure on Green Belt

- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. YARNTON PARISH COUNCIL: **Objects**. The development is within green belt land, would cause loss of visual amenity from PROW and would cause loss of natural wildlife habitat and restrict free-roaming mammal wildlife. The parish has also requested that if the application is permitted, the parish is compensated for loss of amenity through Section 106/CIL to provide positive benefit to the community and that the PROW is maintained as a separate path from that of any access requirement.

CONSULTEES

- 7.3. OCC HIGHWAYS: **No objection subject to conditions** relating to access details, vision splay protection and a revised Construction Traffic Management Plan.

- 7.4. OCC RIGHTS OF WAY: **Objects** to the planning application unless conditions are met. These relate to the relocation of the access off the PROW, the surfacing of the footpath to remain unchanged and the route maintained unobstructed, no site traffic to use the PROW, no enclosure of the PROW without prior consent and the maintenance of a minimum width of 3m. Additional conditions are also recommended and these are set out in the consultation response.
- 7.5. OCC MINERALS AND WASTE: **No objection** on mineral sterilisation grounds, provided that the permission is limited to a period of 25 years and the land is restored to its current state by the end of the 25 year period.
- 7.6. CDC LANDSCAPE OFFICER: **Comments** relating to need to address cumulative harm afforded to the development along with the solar farm on the north of Woodstock Road and need for a landscape masterplan and mitigation landscaping.
- 7.7. CDC ENVIRONMENTAL PROTECTION: **No objections** relating to noise, contaminated land, air quality, odour and light
- 7.8. CDC ECOLOGY: **No comment to date**
- 7.9. CDC FINANCE: **No comment to date**
- 7.10. THAMES VALLEY POLICE: **Comment** that the applicants should refer to the principles and standards of the police's Secured by Design (SBD) scheme.
- 7.11. CAMPAIGN TO PROTECT RURAL ENGLAND: **No comment to date**
- 7.12. OXFORD AIRPORT: Not consulted. The Airport would only be consulted on development proposals exceeding 45 metres in height. The Airport was consulted on the pre-application enquiry, and replied with a request for conditions to be imposed in relation to glare and measures to prevent increased bird activity.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031)

- ESD5 – Renewable Energy
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD14 – Oxford Green Belt
- ESD15 – The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic Development on the Countryside
- C28 – Layout, design and external appearance of new development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Climate Change Act 2008

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Principle of development in the Green Belt
- Impact on the character and appearance of the area
- Highway safety
- Ecology
- Flooding

Principle of development

9.2 Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

9.3 The National Planning Policy Framework (NPPF) provides positive encouragement for renewable energy projects. Paragraph 148 of the NPPF states that the planning system should support the transition to a low carbon future and should support renewable and low carbon energy and associated infrastructure. Paragraph 154 of the NPPF states that when determining applications for renewable and low carbon development local planning authorities should approve such applications if its impacts are or can be made acceptable.

9.4 Policy ESD5 of the CLP 2031 states that renewable and low carbon energy provision will be supported wherever adverse impacts can be addressed satisfactorily. The potential local environmental, economic and community benefits of renewable energy schemes will be a material consideration in determining planning applications.

9.5 In principle, therefore, there is policy support for development of this nature. However, the overall acceptability of development is dependent on other material considerations, including the principle of the development in the Green Belt.

Principle of development in the Green Belt

9.6 The site lies within the Oxford Green Belt and so the proposed development is assessed against Green Belt policy.

9.7 Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the NPPF states that: *“When considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness,*

and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

- 9.8 Paragraph 147 of the NPPF states that when located in the Green Belt elements of many renewable energy projects will comprise inappropriate development and if projects are to proceed developers will need to prove *very special circumstances* such as the wider environmental benefits associated with increased production of energy from renewable sources. All development in the Green Belt needs to preserve the openness of the Green Belt and not conflict with the purpose of including land within it.
- 9.9 Policy ESD14 of the CLP 2031 states that development within the Green Belt will only be permitted if it maintains the Green Belt’s openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.
- 9.10 The proposed development constitutes inappropriate development in the Green Belt as it is not one of the exceptions set out at paragraph 145 of the NPPF and as highlighted in Paragraph 88, substantial weight is given to such harm.
- 9.11 An assessment is required into the impact of the development upon the openness of the Green Belt and on the purposes of including land within it, and then whether the harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify development.
- 9.12 In relation to the purposes of the Green Belt, paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the most important attribute of Green Belts is their openness and permanence. This built development would clearly have an impact upon the openness of the Oxford Green Belt. Furthermore, the proposal conflicts with one of the five purposes of including land within Green Belts as stated in paragraph 80 of the NPPF, in that the proposed development would encroach into the open countryside.
- 9.13 Overall, the harm to the openness of the Oxford Green Belt and the harm by reason of conflict with one of the purposes of including land within the Green Belt as well as the harm to the visual amenities of the Green Belt add to the substantial harm by reason of inappropriateness in relation to the proposed development.
- 9.14 The proposed development is contrary to Green Belt Policy and the NPPF and is by definition harmful. As such *very special circumstances* need to be demonstrated to seek to outweigh the harm to the Green Belt.

Very Special Circumstances

- 9.15. The local planning authority concluded that very special circumstances were demonstrated in the case of the solar farm on the eastern side of Woodstock Road proposed under application 14/00786/F. These were: the contribution the solar farm would make towards renewable energy targets, the well screened nature of the site and the low quality of the surrounding landscape with industrial buildings, the railway, pylons and the main road nearby. The Planning Officer in the committee report stated that “significant weight can be attributed to the sustainability credentials and the limited harm to the surrounding landscape”. This decision followed an appeal in 2012 at Rowles Farm near Heathfield (application 13/01027/F) for a solar farm, again within the Green Belt. The Planning Inspector for that appeal considered that there would be harm to the Green Belt but that the harm was temporary and that the visual impact could be mitigated by planting. The Inspector

stated that the benefits of the significant scale in terms of the production of renewable energy along with the temporary nature of the development outweighed the harm to the Green Belt.

- 9.16. In respect of the proposed site and development the applicant's agent has, in the Planning Statement accompanying the application and further clarified in a letter dated 8th October 2019, advanced what it considers are very special circumstances. They have argued that: as a temporary consent is sought the harm to the landscape and Green Belt would be temporary, up to 5MW of renewable energy could be produced, the site is in close proximity to a substation with capacity for connections and energy generation and is close to the existing solar farm to the east of Woodstock Road enabling the sharing of infrastructure. In addition, the category of the land is poor quality agricultural land (Grade 4) and this is amongst the poorest agricultural land in this part of the district.
- 9.17. In the letter dated 8th October the applicants have provided evidence in support of their site selection. This states that Oxfordshire has some of the highest solar irradiation in the UK; that if irradiation levels are too low then it is economically unviable for solar development such as this to take place, within the current market; the capacity of individual substations in the area have been provided and this is the only one of those put forward that currently has any capacity.
- 9.18. The applicants have also set out that the proposal represents a community energy project, with Oxfordshire-based social enterprise Low Carbon Hub (LCH) being directly involved in the scheme, alongside the applicants Générale du Solaire, and with the scheme forming part of the nationally significant Project LEO (Local Energy Oxfordshire). They have advised that Project LEO takes a very community centric approach to implementing new energy projects across the County. Paragraph B.197 of the Cherwell Local Plan 201-2031 advises of the Council's support for renewable energy where appropriate and Paragraph B.199 states that in line with the UK Renewable Energy Strategy the community ownership of wind power and other renewable energy schemes such as this is encouraged within Cherwell.
- 9.19. In your Officer's opinion it is considered that the VSCs that weigh in favour of the development are the proximity to a substation that has capacity for both connections and energy generation along with the potential sustainable sharing of infrastructure with the existing solar farm to the east of Woodstock Road, its temporary nature, and that the solar farm is a community enterprise.
- 9.20. In addition, it is noted that in the case of the solar farm at the east of Woodstock Road the officer concluded that proposal's limited harm to the landscape in terms of its character and its visual amenities, and that this type of energy development is afforded support from Local and National Planning Policies, also amounted to contributory very special circumstances, and there is no reason to which can officers can point to now reach a different conclusion in respect of the current proposal.
- 9.21. It is also considered that the consent for the solar farm to the east of Woodstock Road is a material consideration in the determining of this application as the sites are similar in that they are in an area with an urban influence, they are both visible in public views and the harm to the landscape is considered to be limited.
- 9.22. On balance, officers consider that the harm caused by this proposal by reason of inappropriate development in the Green Belt is outweighed by the very special circumstances pertaining to the development as set out above.

Impact on the character and appearance of the area

9.23. Guidance in determining applications for renewable and low carbon energy projects is set out in the Planning Practice Guidance (PPG). The PPG advises that “the need for renewable or low carbon energy does not automatically override environmental protection and that cumulative impacts require particular attention, especially the increasing impact that such developments can have on landscape and local amenity as the number of turbines and solar arrays in an area increases”. It continues that “particular factors a local planning authority will need to consider include:

- 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.
- that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
- the proposal’s visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;
- the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
- the need for, and impact of, security measures such as lights and fencing;
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.”

9.24. Policy ESD 13 of the Cherwell Local Plan 2011-2031 states that development will be expected to respect and enhance local landscape character securing appropriate mitigation where damage to local landscape character cannot be avoided.

9.25. The site is relatively flat and is currently in agricultural use. It is well screened from the A44 by mature hedges. However, the development would be visible from the railway and the PROW along the northern boundary of the site. As previously stated there is a footbridge over the railway line and the site would be clearly visible from there. The application includes proposals to screen views of the site from the PROW and footbridge with hedge/tree planting along the northern boundary and when this planting has matured the views of the site would be lessened.

9.26. The Council’s Landscape Officer has assessed the Landscape and Visual Impact Assessment submitted with the application and a subsequent addendum to this. It is considered that the proposals would not have a significant impact on the landscape character or visual amenities of the area if the proposed planting is carried out and allowed to mature. The landscape here is considered to have an urban influence with the proximity to the A44 and the industrial estate at Yarnton and the site bounding the main railway line.

9.27. Consideration has also been given to the cumulative landscape and visual impacts of the development of this site and the existing solar farm on the eastern side of Woodstock Road. It has been concluded that these cumulative impacts would be minimal given the separation of the sites and the low inter-visibility between the two

sites. Whilst the proposal would result in two large solar farms in close proximity to one another it is considered that they would not become a defining characteristic of the landscape here.

Highway Safety

- 9.28. The Local Highway Authority has raised no objections to the application subject to conditions. The LHA advises that as part of planned improvements to the A44 corridor it is anticipated that the carriageway of the A44 will be widened to include a bus lane, which means there needs to be flexibility to take the footway/cycleway to the edge of the highway boundary. For this reason, adequate vision splays should be provided within the site, allowing for this future layout and these would need to be dedicated as part of the S278 highway works required to create the access. The design of the access needs to incorporate priority for cyclists on the cycle path.
- 9.29. Due to the severe congestion experienced on this part of the A44 and in order to mitigate against delays caused by turning vehicles, the proposed Construction Traffic Management Plan (CTMP) requires revision. It would need to include an enforced left in left out arrangement for all vehicles that access the site, to prevent any vehicles either waiting to turn into the site, or to egress the site and pull across the oncoming traffic to head south towards the A34. Para 3.4 of the submitted CTMP therefore requires amending along with Figure 2.1 to reflect this, and it is recommended that the final CTMP is required by condition.
- 9.30. Subject to the recommended conditions it is considered that the proposals, are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view.
- 9.31. OCC has advised that If works are required to be carried out within the public highway, such work should not commence before formal approval has been granted by Oxfordshire County Council by way of legal agreement between the applicant and Oxfordshire County Council.

Ecology

Legislative context

- 9.32. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.33. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.34. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may

proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.35. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

(1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?

(2) That there is no satisfactory alternative.

(3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.36. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

9.37. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.38. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.39. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.40. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to

accompany planning applications which may affect a site, habitat or species of known ecological value.

- 9.41. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.42. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.43. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.44. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development
- 9.45. It also states that LPAs can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.46. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site comprises mostly managed semi-improved grassland, with a number of mature trees and hedgerows within and adjacent the site and a ditch along the eastern boundary therefore the site has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.47. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.48. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that NE will not grant a licence then

the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.

9.49. The application is supported by a detailed protected species and ecological surveys which concluded that:

- suitable habitat for amphibians within the site is limited,
- no evidence of badgers was found within the site and the habitat is generally deemed unsuitable,
- the trees within the site have moderate potential to support roosting bats but none were found and due to the nature of the proposed works no impacts on bats is anticipated,
- foraging areas identified will remain largely unaffected by the development,
- birds could be adversely affected during vegetation clearance,
- there is limited ecological value for invertebrates

9.50. The Council's Ecologist has not commented on the application to date. However, comments were made regarding the pre-application proposal in 2015. These included the recommendations to carry out of protected species surveys prior to the submission of an application and the provision of biodiversity enhancements within the site.

9.51. Officers are satisfied, in the absence of any objection from NE, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Flooding

9.52. The site lies within Flood Zones 2 and 3 and a Flood Risk Assessment (FRA) has been submitted with the application. The FRA concludes that the development can remain appropriately safe throughout its lifetime and the development would not increase flood risk elsewhere if drainage for the development is carried out in accordance with drawing G234/03 and maintained in accordance with procedures set out in Table D of the FRA. It is recommended that this is the subject of a condition.

9.53. As this is the case and in the absence of any information to the contrary it is considered that the development complies with Policy ESD6 of the Cherwell Local Plan 2011-2031.

Archaeology

9.54. The site is located in an area of archaeological interest immediately to the south of an area of pre-historic and roman settlement identified from cropmarks seen on aerial photographs and a geophysical survey. It is possible that archaeological features could be disturbed by the development. Policy ESD15 of the Cherwell Local Plan 2011-2031 requires that where archaeological potential is identified applications should include an appropriate desk-based assessment and if necessary a field evaluation.

- 9.55. A desk-based historic environment assessment has been submitted with the application. The conclusions of this assessment are that there is a moderate potential for buried archaeological remains. The assessment recommends that geophysical survey is carried out to further gauge the archaeological potential.
- 9.56. It is recommended that the further geophysical survey is carried out and this is the subject of a condition below.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate earlier. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and need to achieve the economic, social and environmental objectives in mutually supportive ways.
- 10.2. Economic objectives – The location of the proposed development in an area where there is adequate irradiation means that the solar farm development would be economically viable. Added to this is the capacity of the local infrastructure to link the development to the national grid and the proximity to another solar farm to enable sharing of infrastructure.
- 10.3. Social objectives – The proposal is supported by an Oxfordshire based social enterprise delivering renewable energy to local communities through an investment programme. Support for community led initiatives is set out in the NPPF.
- 10.4. Environmental objectives – Whilst there will be harm caused to the local environment due development on a greenfield site in the Oxford Green Belt this is considered temporary in nature, would not result in the loss of Best Most Versatile agricultural land and the visual impact can be mitigated with additional planting. The wider environmental benefits of providing renewable energy are considered to outweigh this harm.
- 10.5. Overall, when considered as a whole, the economic, social and wider environmental benefits of the scheme are considered to weigh in favour of the proposal and to outweigh the adverse effects on landscape character and visual amenities of the area, and it is considered that the harm to the Green Belt by reason of inappropriateness is justified by the very special circumstances as set out earlier in this report. It is therefore considered to represent a sustainable form of development and it is recommended that planning permission be granted.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY):

CONDITIONS

Time Limit

1. 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.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
 - Site location plan, Drawing Nos 772522- DWG-ENV-001, 002, 003 and 004, PV Power Plant Layout rev F, SK01 rev B, Transformer rev A, Cross Section Design, rev A and Access Road rev A.
 - Design and Access Statement prepared by Pegasus Group, Planning Statement prepared by Pegasus Group, Landscape and Visual Impact Assessment prepared by Pegasus Landscape Design, Tree Survey, Arboricultural Impact Assessment, Tree Protection Plan, Preliminary Ecological Appraisal, Great Crested Newt Survey, Bat Survey, Historic Environment Desk Based Assessment, Flood Risk Assessment and Drainage Strategy and Construction Management Plan submitted with the application.
 - Landscape and Visual Impact Assessment Addendum dated September 2019,

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

Temporary Permission

3. The permission shall expire no later than 35 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 ESD 13 and ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 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 saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Landscaping Scheme

5. Prior to the clearance of the site 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.

The development shall not be carried out other than in strict accordance with the approved scheme and the hard landscape elements of the scheme shall be fully implemented prior to the first operation of the development and shall be retained as such thereafter.

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 ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Landscaping Implementation

- 6. 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 Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Landscape Maintenance

- 7. Prior to the clearance of the site 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 ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Retention of Hedgerows

- 8. The existing hedgerows along all boundaries of the site 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 ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Access

9. 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 ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the clearance of the site 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, and prior to the construction of the solar array, 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.

Vision Splays

11. The vision splays shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

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

Construction Management Plan

12. Notwithstanding the Construction Traffic Management Plan (CTMP) dated July 2015 prepared by Transport Planning Associates submitted with the application, prior to the commencement of the development hereby approved a revised CTMP shall be submitted to and approved in writing by the Local Planning Authority. The CTMP must be appropriately titled, include the site and planning permission number. The statement shall include the following at a minimum:
 - a) The parking of vehicles of site operatives and visitors;
 - b) The routing of construction traffic and delivery vehicles to and from the site;
 - c) A commitment to deliveries only arriving at or leaving the site outside local peak traffic periods.

- d) Details of and approval of any road closures needed during construction.
- e) Details of and approval of any traffic management needed during construction
- f) Left in left out arrangement to ensure that vehicles egressing the site do not need to cross oncoming traffic.
- g) Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- h) A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
- i) Loading and unloading of plant and materials;
- j) Storage of plant and materials used in constructing the development;
- k) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- l) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- m) Measures to control the emission of dust and dirt during construction;
- n) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- o) Delivery, demolition and construction working hours;
- p) Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- q) The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times, to ensure the environment is protected during construction in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Drainage

13. Prior to the levelling of the site or construction of the access and internal tracks whichever is the earliest the drainage for the development shall be carried out in accordance with drawing no. G234/03 and the drainage shall be maintained in accordance with the procedures set out in Table D of the Flood Risk Assessment dated May 2018 prepared by PFA Consulting thereafter.

Reason - To protect the development and its occupants from the increased risk of flooding and in order to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Archaeology

14. Prior to the first excavation or levelling of the site whichever is the earliest, a geophysical survey shall be undertaken by a professional archaeological organisation acceptable to the Local Planning Authority to inform the need for

further archaeological investigation and a Written Scheme of Investigation relating to the application site area, shall be submitted to and approved in writing by the Local Planning Authority.

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and 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.

15. Prior to the first excavation or levelling of the site whichever is the earliest and following the approval of the geophysical survey referred to in condition 15, 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.

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 Government guidance contained within the National Planning Policy Framework.

Ecology

16. The development hereby approved shall be carried out in accordance with the recommendations set out in Sections 5 and 6 of the Preliminary Ecological Appraisal carried out by Mott Macdonald on 16 October 2017.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Lighting

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

Reason - 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 ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework