

Case Officer: Rebekah Morgan

Applicant: JBM Solar Projects 8

Proposal: Installation and operation of a renewable energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with a switchgear container, inverter/transformer units, Site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements.

Wards: Fringford And Heyfords, Launton and Otmoor, Bicester North and Caversfield, and Bicester East.

Councillors: Fringford And Heyfords – Councillor Grace Conway-Murray, Councillor Nigel Simpson and Councillor Barry Wood
Launton and Otmoor – Councillor Gemma Coton, Councillor Julian Nedelcu and Councillor Alisa Russell
Bicester North and Caversfield – Councillor Simon Lytton, Councillor Nicholas Mawer and Councillor John Willett
Bicester East – Councillor Tom Beckett, Councillor Donna Ford and Councillor Rob Parkinson

Reason for Referral: Major development

Expiry Date: 18 December 2023

Committee Date: 06 June 2024

SUMMARY RECOMMENDATION: APPROVAL SUBJECT TO: CONDITIONS.

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located approximately 0.7km to the northeast of Stratton Audley and approximately 1.5km southeast of Fringford. The application site is comprised of 7 agricultural field parcels in the open countryside and has a site area of approximately 59.4 hectares. The red line boundary includes provision for cabling works (which will run almost entirely below the highway/verge) through the neighbouring villages and therefore the overall site area totals 67.9 hectares. The fields are separated by intermittent hedgerows and low level fencing. The land across the site is relatively flat although the highest points are in central and northern parts of the site.
- 1.2. The surrounding area is predominantly agricultural in nature. Pool Farm sits immediately adjacent to the site and is used as a wedding venue business. The site is accessed via an existing agricultural access point from the adjacent road.

2. CONSTRAINTS

- 2.1. The following constraints are relevant to the application:
- There is a public right of way adjacent to the northern boundary of the site (outside of the application site area) – ref: 371 8b/10.
 - There are two other public rights of way within close proximity of the site – ref: 225 6/10 (to the east) and 371 3/10 (to the south).
 - Agricultural Land Classification: Grade 3b
 - The constraints data identifies the potential presence of a range of protected and notable species on the site.

- The site is within an Archaeological Alert Area
- The main area of the site is within Flood Zone 1 (part of the redline area for the cabling works crosses Flood Zones 2 and 3).
- The constraints data identifies the presence of low pressure and high pressure gas pipelines within the vicinity of the site.
- There are Listed Buildings adjacent to the part of the redline line area that identifies the cabling route. There are no listed buildings within the vicinity of the main part of the site.
- The part of the red line area that identifies the cabling route passes adjacent to and through the RAF Bicester Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks consent for a 44 MW Solar Photovoltaic (PV) Array and battery storage. The proposal includes the provision of ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with a switchgear container, inverter/transformer units, Site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements.
- 3.2. The drawings show the photovoltaic arrays would be mounted a minimum of 80cm from the ground with the top edge being a maximum of 3m from ground level. The panels would be set out in rows with between 4 and 10m between the rows. They would be orientated to maximise solar gain.

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:

22/01796/PREAPP: Proposed erection of a Solar Photovoltaic (PV) Array and battery storage units, with a total export capacity of up to 44 MW

- 5.2. The pre-application enquiry concluded that the broad principle of the development was considered to be acceptable as it was supported by local and national policy. The applicant was advised that a Landscape Visual Impact Assessment would be required to support an application.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notices displayed near the site and by advertisement in the local newspaper. The final date for comments was **14 June 2023**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. The comments raised by third parties are summarised as follows:

Objections

- Loss of productive agricultural land
- Should be located on land that cannot be used for crop production (i.e. next to a motorway, airfields that do not interrupt safe use and on roofs)
- It should be on brownfield land
- Submitted ecological reports are inaccurate and incomplete

- There are better, alternative locations closer to urban centres
- The length of time (40 years) is not temporary but a permanent development
- Impact of construction work and disruption on local villages
- Question why the site needs to be so large
- Technology is likely to significantly improve in the next 10-20 years, therefore sacrificing farm land for 40 years does not make sense
- Landscape harm and visual impact
- Highly visible from surrounding footpaths
- The batteries should be sunk into the ground and not visible by road users
- Impact on the tranquillity of the area and the footpaths
- Loss of wildlife
- Loss of hedgerows
- Significant amount of crushed concrete and gravel is required to support the fencing, for the pathways/tracks within the site and to provide bases for the battery stations etc..
- Waste and pollution when dismantling the site
- Impact of glint/glare on flight paths
- Cable route not suitable due to Tree Protection Orders and public safety issues
- Highway safety concerns
- Increased traffic
- Roads not suitable for further HGV traffic
- Neighbouring properties will be affected by noise from inverters
- Site security lights will impact on bird life and the sky will be less dark
- Impact on the neighbouring business at Pool Farm
- The project is only for the financial gain of the land owner
- Impact on property value of neighbouring dwelling
- Development would set a precedent resulting in the loss of more countryside
- Dispute the land classification – this is productive agricultural land

Support

- Cherwell Policies support green energy and solar power
- Significant contribution towards net zero carbon and supports a greener carbon free future
- Contributes towards managing wholesale electricity prices
- Boost to the UK's energy independence needs
- Biodiversity benefits
- If future circumstances change, the solar farm can be easily removed
- Supports a move away from fossil fuels
- We are in a climate crisis and should support renewable energy

General comments

- Support Stratton Audley Parish Council's claims for more compensation – the trenches for laying cables in the village should also be used to put the village electricity supply underground.
- Requested conditions relating to electromagnetic compatibility to prevent impacts on broadband users and radio signals etc..

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.
- 7.2. LAUNTON PARISH COUNCIL: No comments or objections to the proposal.
- 7.3. STRATTON AUDLEY PARISH COUNCIL: Objection. The Parish Council has submitted a detailed letter of objection covering the following points:
- The landscape and its despoilment for this and future generations
 - Interim development in future years
 - Disruption during construction
 - Construction traffic and highway safety
 - Noise and residential amenity
 - The land itself and its best and most productive use
- 7.4. GODINGTON PARISH COUNCIL: Objection. The Parish Council has submitted a detailed letter of objection covering the following points:
- Cumulative harm to the local countryside
 - Construction traffic and highway safety
 - Disruption during construction of the grid connection
 - Harm to residential amenity
 - Land productivity
 - Impact on local businesses
- 7.5. OCC HIGHWAYS: No objection subject to conditions and an obligation to enter into a Section 278 agreement to secure works to the highway.
- 7.6. OCC ARCHAEOLOGY: *The proposal site lies in an area of archaeological interest, and the approved reports of a geophysical survey and archaeological evaluation have been submitted with this application. The geophysical survey identified a number of weak anomalies which potentially represented ditched enclosures. The trenched evaluation targeted these anomalies, as well as 'blank' areas across the site. Within the trenches, ditches and pits containing later prehistoric, as well as possibly Neolithic pottery, were recorded in the southern part of the site. An undated cremation and a possible oven were also recorded, which along with the enclosures, may represent a dispersed or multi-focal later prehistoric site. A small group of Roman ditches were also recorded in the centre of the site. These features will need to be fully investigated and recorded via archaeological mitigation, in line with the attached conditions.*
- 7.7. LEAD LOCAL FLOOD AUTHORITY: No objections subject to conditions requiring the approved drainage scheme to be implemented and a record of the installed SuDs to be submitted.
- 7.8. CDC ENVIRONMENTAL PROTECTION:
- Noise: I have read the Noise Impact Assessment Report provided by the applicant (ref 2061200- RSKA-RP-001, dated January 2023) and noted the predicted noise levels from the proposed inverters and substations which could cause a significant impact to the local noise environment should mitigation not be installed (+20db above background level). I also note that potential mitigation to reduce the noise levels to acceptable levels is discussed but not finalised, therefore I would recommend conditions.*

Contaminated Land: No comments

Air Quality: No comments

Odour: No comments

Light: No comments

- 7.9. CDC CONSERVATION OFFICER: *With respect to impact on heritage assets, a detailed Built Heritage Assessment has been submitted, which has concluded that the site makes no contribution through setting to the significance of Stratton Audley Conservation Area or any Scheduled Monument, Listed Building, proposed Local Heritage Asset, or non-designated heritage asset. No harm to any heritage asset as arising through change to setting has been identified.*

From the submitted assessment, I would concur with this assessment, and it is considered that there would be no harm to the significance of the heritage assets, with their setting preserved.

- 7.10. CDC ECOLOGY OFFICER: No objections subject to conditions. Detailed comments have been provided regarding assessment of Biodiversity Net Gain, District Licence matters and questions regarding decommissioning.

- 7.11. CPRE: A detailed response has been submitted setting out a number of concerns/objections to the proposal. The letter concludes with the following summary:

This development will have a highly damaging impact on the rural landscape. This site has not been allocated for development in the currently adopted local plan. CPRE does not believe that development has sufficient support from the local communities that are most affected by it. CPRE further believes that this development does not significantly contribute to the district's net zero objective and there is a surfeit of opportunities that are not being sufficiently explored, such as rooftops and car parks, which cause significantly less harm than this development. CPRE would urge that this development is refused.

- 7.12. BBWOT: As a wildlife conservation organisation, our comments refer specifically to potential impacts on wild species and habitats which may occur as a result of the proposal. We have the following comments on this application:

- Potential for serious impact on Oldfields Copse ancient woodland/proposed Cherwell District Wildlife Site (CDWS) and Poodle Gorse CDWS through impact on some of the species that use the sites.
- Potential for serious impact on priority species breeding and wintering birds
- Concern in relation to Biodiversity Net Gain calculations provided
- Mitigation measures
- Concerns relating to lighting
- Concerns relating to fencing

The response provides detailed comments on each of the points raised above.

- 7.13. NATURE SPACE: *The applicant for the above planning application has now been sent their NatureSpace Report and impact plan which they should shortly submit to yourself. Should you be minded to approve planning for the above planning application there are mandatory conditions and informatives within the Report (on pages 6/7) that must be used in verbatim on the decision notice. This is in order to comply specifically with conditions in the council's district licence.*

If the district licence conditions are not used in verbatim, it could potentially lead to the LPA being unable to send out authorisation paperwork to the applicant on time and a decision notice needing to be reissued. If the authorisation has been issued to the applicant, then it could also mean that an administrative breach of the licence conditions has occurred.

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 2015)

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- ENV1: Development likely to cause detrimental levels of pollution
- C8: Sporadic Development in 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)
 - The Planning (Listed Buildings and Conservation Areas) Act 1990
 - EU Habitats Directive
 - Natural Environment and Rural Communities Act 2006
 - Conservation of Habitats and Species Regulations 2017
 - Circular 06/2005 (Biodiversity and Geological Conservation)
 - Cherwell District Council Climate Emergency Declaration & 2020 Climate Action Framework
 - British Energy Security Strategy April 2022

9. APPRAISAL

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

- Principle of development
- Impact on the character and appearance of the area
- Highway safety and impact on Public Rights of Way
- Flooding/Drainage
- Heritage impact

- Residential amenity
- Ecology impact
- Other matters – impact on neighbouring business

Principle of Development

- 9.2. Paragraph 11 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 NPPF provides positive encouragement for renewable energy projects. Paragraph 157 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 163 of the NPPF states that when determining applications for renewable and low carbon development local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions; and approve such applications if its impacts are (or can be made) acceptable.
- 9.4 Policy ESD5 of the CLP 2015 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.
- 9.3. In principle, therefore, there is policy support for development of this nature. However, the overall acceptability of development is dependent on other material considerations.

Impact on the character and appearance of the area

- 9.4. Given the nature and scale of this type of proposal, it is inevitable that a solar farm development would result in some landscape harm. In this context, the NPPF and local development plan policy adopts a positive approach indicating that development will be approved where harm would be outweighed by the benefits of the scheme. There is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where the development can be viewed, such as villages, roads, public rights of way and individual dwellings.
- 9.5. Paragraph 180 of the NPPF indicates that the intrinsic character and beauty of the countryside should be recognised. Although the NPPF does not seek to protect, for its own sake, all countryside from development, it does set out to protect valued landscapes. The concept of valued landscapes is not defined in the NPPF; the application site does not form part of any designated landscape. Although the value of a given area within a particular landscape may depend on the value attributed to it by an individual or groups of people.
- 9.6. Guidance in determining applications for renewable and low carbon energy projects is set out in the 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.”
- 9.7. Policy ESD13 of the CLP 2015 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.
- 9.8. The site is relatively flat and is currently in agricultural use. It is well screened from the public highway by mature hedges and buildings. However, the proposed development would be visible from the public rights of way (PROWs) in the immediate vicinity and from viewpoints across the wider landscape.
- 9.9. Given that landscapes will be valued by someone at some time, the term valued landscape must mean that they are valued for their demonstrable physical attributes, which elevate them above just open countryside but below those areas that are formally designated, such as National Parks, AONBs etc. However, there is nothing significant about the application site that would elevate it or the surroundings to that of the NPPF 'valued' landscape. The agricultural nature of the site with its slight undulating nature, despite being close to a number of public rights of way that give it a degree of sensitivity by virtue of it being accessible, does not significantly elevate its status. In other words, there are no attributes that take it to a level just below that associated with designated landscapes.
- 9.10. The application was submitted with a Landscape and Visual Impact Assessment (LVIA) which concluded there would be some impact on the wider landscape, predominantly due to the change in use and loss of openness. The LVIA was independently appraised and whilst it raised some criticism of the methodology, it largely supported the approach taken. The consultant has however questioned the inclusion of a field in the southwestern corner of the site.
- 9.11. Having reviewed a number of recent appeals, the case law is very clear that any landscape harm would need to be substantial to outweigh the overall public benefits of providing renewable energy. The Inspector for a 2023 appeal in the village of Scranton (ref: APP/G2713/W/23/3315877) concluded that '*The Framework sets out a presumption in favour of sustainable development, and renewable energy*

development is central to achieving a sustainable future. The appeal scheme would make a valuable contribution to this. In addition, significant biodiversity enhancements would be achieved. The proposal would however be a significant development in the countryside and policy requires that any impacts are, or can be made, acceptable. The only adverse impact identified is a limited localised harm to the landscape character and visual impact. This impact can be effectively mitigated'.

- 9.12. In this case, the landscape is not designated or considered to be particularly sensitive. Although a longer term temporary use (approx. 40 years) at the end of the life of the development, the land can be restored to its former use and the structures removed.
- 9.13. Concerns have been raised regarding the loss of agricultural land. The application has been submitted with an Agricultural Land Classification Assessment classifies the land as Grade 3b, which is not considered to be 'Best and Most Versatile Land'. This classification is consistent with the Council's constraints data. Therefore, the temporary loss of this land to facilitate the solar farm is acceptable in policy terms.
- 9.14. To conclude although harm would result, the landscape impacts would be localised, and the site has the potential to revert back to its existing condition at the end of the lifetime of the development.

Highway safety and impact on Public Rights of Way

- 9.15. Paragraph 114 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users;
 - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
 - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 9.16. In addition, paragraph 115 highlights that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.17. The Local Highway Authority has raised no objections subject to conditions and legal agreement relating to works to the highway.
- 9.18. The Local Highway Authority note that the proposed access arrangements appear to be satisfactory in principle. A Section 278 agreement is required relating to installation of radii kerb access to ensure the access and visibility splays are suitable for the construction traffic.
- 9.19. Additional comments were provided relating to the removal of the formalised passing places that were previously installed for East West Rail construction traffic. The comments state *'I understand that the improved junctions at the A4421 and Mill Road are to remain, as will one passing bay close to the A4421. The estimated daily average of 11 two-way HGV movements (5.5 inbound and 5.5 outbound) is likely to result in very few instances of HGVs having to pass on this relatively short stretch of road, so the existence of passing places is not considered necessary. The level of*

generated traffic, over a relatively short six-month duration, cannot be demonstrated to have an unacceptable impact on highway safety, nor can the impacts on the road network be considered as severe’.

- 9.20. 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.
- 9.21. With regards to PROWs, the proposal commits to provide a permissive footpath route over the lifetime of the development. This is noted by Oxfordshire County Council and welcomed as it will provide an important connection in the local rights of way network. Conditions will be required to ensure the details of the PROW are suitable in terms of access, signage, suitable landscaping and maintenance.

Flooding/Drainage

- 9.22. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 173 of the NPPF states that *‘when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
 - b) *the development is appropriately flood resistant and resilient;*
 - c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
 - d) *any residual risk can be safely managed; and*
 - e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.’*
- 9.23. Paragraph 175 of the NPPF continues by stating that *‘major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.’*
- 9.24. Policy ESD6 of the CLP 2015 replicates national policy in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.25. Policy ESD7 of the CLP 2015 requires the use of Sustainable Urban Drainage Systems (SuDS) to manage surface water drainage systems. This is with aim to manage and reduce flood risk in the district.
- 9.26. This site lies within Flood Zone 1 which is areas at the lowest risk of flooding. A Flood Risk Assessment and Outline Drainage Strategy has been submitted with the application. The FRA concludes that *‘the site is currently a greenfield site and is existing agricultural land. The proposed development will only alter the impermeable area on site by a diminutive amount, resulting in a negligible increase in surface water runoff. The solar panels will not increase the impermeable area on-site, and therefore will not increase the volume of surface water runoff’.*
- 9.27. The Lead Local Flood Authority has raised no objections subject to conditions requiring the implementation of the drainage scheme. Therefore, the development complies with Policy ESD6 of the CLP 2015.

Heritage Impact

- 9.28. The main body of the site (where the solar array and equipment would be located) is not within a Conservation Area or close to any listed buildings, however it is within an Archaeological Alert Area.
- 9.29. A section of the application site relating to the provision of cabling works crosses through both the Stratton Audley Conservation Area and RAF Bicester Conservation Area. In addition, this element of the scheme passes close to a number of listed buildings.
- 9.30. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.31. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.32. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 205 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2015 echoes this guidance.

Listed Buildings and Conservation Areas

- 9.33. The element of the scheme that passes through the Conservation Areas and close to Listed Buildings is related to cabling work to connect the proposed development into the National Grid network. The proposed works would be underground and would not result in built form. Therefore, the proposals would not have a detrimental impact on the character and appearance of the Conservation Areas or the setting of Listed Buildings.

Archaeology

- 9.34. Policy ESD15 of the CLP 2015 requires that where archaeological potential is identified applications should include an appropriate desk-based assessment and if necessary, a field evaluation. The site lies in an area of archaeological interest, and as requested by Oxfordshire County Council's Archaeologist, the approved reports of a geophysical survey and archaeological evaluation have been submitted with this application.
- 9.35. The County Archaeologist has commented that *'The geophysical survey identified a number of weak anomalies which potentially represented ditched enclosures. The trenched evaluation targeted these anomalies, as well as 'blank' areas across the site. Within the trenches, ditches and pits containing later prehistoric, as well as possibly Neolithic pottery, were recorded in the southern part of the site. An undated cremation and a possible oven were also recorded, which along with the enclosures, may represent a dispersed or multi-focal later prehistoric site. A small group of Roman ditches were also recorded in the centre of the site. These features will need to be fully investigated and recorded via archaeological mitigation, in line with the attached conditions'*.

- 9.36. Subject to conditions relating to archaeology, the proposal would not cause harm to heritage assets and is considered to comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

Ecology Impact

- 9.37. Paragraph 180 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 186 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 191 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 CLP 2015 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. 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.
- 9.42. 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.
- 9.43. 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

It also states that LPA's 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')

9.44. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site comprises mostly open agricultural fields, with a number of mature trees and hedgerows, therefore the site has the potential to be a suitable habitat for a range of protected and notable species and this is supported by the Council's constraints data.

9.45. 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 local planning authority should then consider whether Natural England 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.

9.46. 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 Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.47. The application is supported by a Biodiversity Net Gain Assessment, Landscape and Ecological Management Plan and Nature Space District Licence Report.

9.48. A range of comments have been received regarding ecology and biodiversity, including those from BBOWT. The Council's Ecologist has had ongoing discussions during the course of the application with additional information being submitted. The Council's Ecologist has concluded that: *'The applicants have now submitted the full metric as part of their biodiversity impact assessment. This proposes a net gain of over 200%. I have some reservations about the aim of achieving moderate condition for the grassland within the compounds as this does not allow for the fact that much of the grassland is actually covered with a sealed surface of panels (at least half by surface area is impacted at least by shading) – it does not seem accurate to treat this the same as the creation of 49 hectares of 'other neutral grassland' in the traditional sense. Whilst I appreciate there is no habitat class of 'grassland with solar panels' – I think as a minimum it should be accepted that the grassland is likely to achieve fairly poor condition at best. However, even changing the condition proposed to this lower level leads to a 100% net gain for biodiversity on site and so I have no objection on these grounds but suggest the applicant may wish to consider what is feasible in their HMMP for the site.'*

I support the proposed change in seed mix to a now more beneficial type and appreciate the clarity over lighting and fencing.

Ideally a comparative monitoring scheme is carried out to monitor bat and breeding bird activity changes over time across the site in comparison to baseline, even if only at 3, 5 and 10 years. There is a relative paucity of information on the impacts of solar farms in these habitat conditions and this would contribute to the knowledge base for our locality. This could be factored into the LEMP or HMMP. Note this is a request as opposed to requirement'.

- 9.49. A certificate and impact risk map for the Great Crested Newt District Licence has been submitted. The Council's Ecologist has confirmed that the conditions recommended by Nature Space need to be included in the decision notice.
- 9.50. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will 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.

Residential Amenity

- 9.51. Paragraph 191 of the NPPF advises that planning policies and 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.
- 9.52. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.53. Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution including noise and light pollution and traffic generation.
- 9.54. A full noise assessment has been submitted with the application. The assessment is based on 'worst-case' scenarios in terms of potential impacts. The assessment concludes:
- When assessing against WHO guidelines for environmental noise, the predicted levels are shown to be at or below the threshold laid out in WHO guidelines for external amenity spaces, and internal amenity spaces, both at night-time and during the day.
 - Furthermore, a number of assumptions have been made with respect to the typical operational capacity of the development that are considered to over-estimate the noise emissions and, subsequently, the degree of impact.
 - Accounting for the points raised above, it is considered that the likelihood of significant adverse impact upon the amenity of nearby NSRs is low.
- 9.55. The Council's Environmental Protection Officer has considered the report and advised that significant impact to the local noise environment would occur should mitigation not be installed, therefore conditions are recommended to ensure the appropriate mitigation is installed and maintained.
- 9.56. Third Party comments have raised concerns that a new dwelling (at Land adjacent to Merrick Hill Stud, Godington) was not considered in the assessment as it is a new dwelling. The property is approximately 400m away from the closest point of the proposed site. This is closer than Godington Hall (approx. 900m), but further away than Pool Farm that sits adjacent to the site. As with the other residential properties in the area, officers are satisfied that given the nature of the development and the distances involved the residential amenities of the neighbours would not be unduly compromised.

9.57. Overall, with appropriate mitigation measures, the proposal is not considered to have significant impacts on the amenity of any of the local residents in the area.

Other matters

9.58. The application site is adjacent to Pool Farm which is currently used as a wedding venue including use of some of the outside space. It is acknowledged that during the construction phase, there could be noise/disturbance that has the potential to impact on the use of parts of the neighbouring site and the potential perception of disruption could deter customers from booking the site. In the longer term, the proposed development should only have a limited impact on the neighbouring business once construction is complete. There may be some locations where the solar panels may be visible and this is likely to impact on potential photographic locations for the weddings, however it is a large site and alternative locations within the site could be used for this purpose.

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 is in an area where a solar farm development would be economically viable (where there is a gap in the grid capacity) and would provide economic benefits during the construction phase. The development would not result in the loss of Best Most Versatile (BMV) agricultural land (the importance of protecting BMV land was re-emphasised in a recent ministerial statement which made the point ‘food security for our national security’).

10.3. Social objectives – The applicant is proposing to incorporate a permissive footpath into the scheme. The development would be of significant detriment to the living amenities of nearby residents.

10.4. Environmental objectives – The solar farm, which would only be in place for 40 years, would provide up to 44 megawatts of installed electrical generation capacity, delivering significant environmental benefits by reducing carbon emissions. Although some harm would result, the visual impact on the land, which is not considered to be visually sensitive, and has no designation, can be largely mitigated with planting. The application will also result in significant Biodiversity Net Gain.

10.5. When considered as a whole, the economic, social and wider environmental benefits of the scheme outweigh any adverse effects on landscape character and the visual amenities of the area. The proposal is therefore considered to represent a sustainable form of development and it is recommended that planning permission be granted.

11. RECOMMENDATION

**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:
 - Drawing number 1120022-ADAS-XX-XX-DR-P-8001 - [Site Location Plan A]
 - Drawing number 1120022-ADAS-XX-XX-DR-P-8002 - [Site Location Plan B]
 - Drawing number 1051745-ADAS-XX-XX-DR-PL-8000 - [Site Layout Plan Overall]
 - Drawing number 1051745-ADAS-XX-XX-DR-PL-8001 - [Site Layout Plan 1 of 4]
 - Drawing number 1051745-ADAS-XX-XX-DR-PL-8002 - [Site Layout Plan 2 of 4]
 - Drawing number 1051745-ADAS-XX-XX-DR-PL-8003 - [Site Layout Plan 3 of 4]
 - Drawing number 1051745-ADAS-XX-XX-DR-PL-8004 - [Site Layout Plan 4 of 4]
 - Construction Compound drawing Rev A - [Indicative Construction Compound]
 - Typical battery station drawing - [Typical battery stations ancillary drawing]
 - Typical inverter + DC batteries drawing Rev A - [Typical battery stations ancillary drawing]
 - Typical cable route trench drawing Rev A - [Typical Cable Route Trench Sections Details]
 - Comm mast details drawing Rev A - [Comms and Weather Station mast]
 - Customer switchgear drawing Rev A - [Customer Switchgear Details]
 - DNO building drawing Rev A - [DNO Building Details]
 - Fence & CCTV details drawing Rev A - [Fence, Track and CCTV]
 - Inverter building drawing Rev A - [Inverter Station Details]
 - 3P table drawing Rev A - [PV table details]
 - Spares container drawing Rev A - [Spares Container Details]
 - Trench section drawing Rev A - [Trench Sections Details]
 - Access gate drawing Rev A - [Access Gate]
 - Drawing number 111299-10-01 - [Indicative Access Junction]
 - Drawing number 111299-10-02 Rev A - [Indicative Access Junction Swept Path Analysis Generic Low Loader (18m)]
 - Drawing number 111299-10-03 Rev A - [Indicative Access Junction Visibility Splay 2.4m x 215m]
 - Drawing number 111299-10-04 - [Indicative Access Junction Visibility Splay 2.4m x 120m]
 - Preliminary Ecological Appraisal by Western Ecology dated July 2022
 - Breeding bird surveys by Western Ecology dated November 2022
 - Great Crested Newts Survey Report by Western Ecology dated November 2022
 - Wintering birds survey by Western Ecology dated November 2022
 - Landscape and Visual Appraisal by RSK ADAS Ltd dated November 2022
 - Review of Landscape and Visual Appraisal by Huskinson Brown Associates dated February 2024
 - Landscape and Ecological Management Plan by RSK ADAS Ltd dated

November 2022

- Site Enhancement Strategy
- Biodiversity Net Gain Assessment by RSK ADAS Ltd dated December 2022
- Transport Statement by RSK ADAS Ltd dated November 2022
- Arboricultural Planning Statement by RSK ADAS Ltd dated November 2022
- Flood Risk Assessment & Outline Drainage Strategy by RSK ADAS Ltd dated November 2022
- Built Heritage Assessment by Pegasus Group dated November 2022
- Archaeological Desk Based Assessment dated November 2022
- Geophysical Survey Report by Magnitude Surveys dated October 2022
- Solar Photovoltaic Glint and Glare Study dated November 2022
- Agricultural Land Classification by Amet Property dated November 2022
- Statement of Community Involvement by JBM Solar dated December 2022
- Technical Statement on Battery Energy Storage Systems by JBM Solar dated December 2022
- Landscape and Ecological Management Plan RSK ADAS Ltd dated May 2023

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 40 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 one 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:-

- i. Details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- ii. 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,
- iii. 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.

Highways and Public Rights of Way

8. Prior to the first use of the solar farm hereby approved, details of the raised kerbed bell mouth site access plan as shown indicatively on the Indicative Access Junction drawing no. 111299-10-01 shall be submitted to and approved in writing. The mitigation measures shall be carried out in accordance with the agreed details prior to first occupation.

Reason: In the interest of highway safety and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

9. Other than the approved access no other means of access whatsoever shall be formed or used between the land and the highway.

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

10. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

11. No development shall commence unless and until full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed prior to commencement of development in strict accordance with the approved details and shall be retained and maintained as such thereafter. Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

Reason - In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

12. Prior to operation of the site, full details of the permissive path through the site, including the route, width, signage and access furniture, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details agreed.

Reason - In order to comply with Government guidance contained within the National Planning Policy Framework.

13. Prior to operation of the site, full details of protection, mitigation and improvements of the existing paths within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details agreed.

Reason - In order to comply with Government guidance contained within the National Planning Policy Framework.

Drainage

14. The approved drainage system shall be implemented in accordance with the approved Detailed Design prior to the use of the building commencing:

Document: Drainage Response Date: 13/04/2023

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal.

15. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document installation of the drainage structures on site;
- d) The name and contact details of any appointed management company information.

Reason: To protect the development 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.

Environmental Protection

16. Prior to the commencement of the development hereby approved, full details of a noise mitigation scheme including the noise levels to be achieved with the mitigation at the Noise Sensitive Receptors listed in the noise report (ref 2061200-RSKA-RP-001, dated January 2023) shall be submitted to and agreed by the LPA. Thereafter, and prior to the first use of the development, the development shall be carried out and retained in accordance with the approved details.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP) which takes account of the Council's published recommended hours for noisy construction work and shall include details of the measures to be taken to ensure construction works do not 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 creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Archaeology

18. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the recording of archaeological matters within the site in accordance with the National Planning Policy Framework.

19. Following the approval of the Written Scheme of Investigation referred to in condition 18, 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 within two years of the completion of the archaeological fieldwork.

Reasons: 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.

Ecology

20. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Padbury Brook: Impact Plan for great crested newt District Licensing (Version 3) (Sheets 1 and 2)", dated 22nd January 2024.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

21. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112, or a 'Further Licence'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the planning authority and the authority has provided authorisation for the development to proceed under the district newt licence. The delivery partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

Reason: In order to adequately compensate for negative impacts to great crested newts, and in line with section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

22. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence'), and in addition in compliance with the following:

- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
- Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

23. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
- a) Risk assessment of potentially damaging construction activities;
 - b) Identification of 'Biodiversity Protection Zones';
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) The times during construction when specialist ecologists need to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

24. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by an ecologist (member of the IEEM or similar related professional body) to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

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.

25. Prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage 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

26. 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.

Planning Notes

1. It is recommended that the NatureSpace Best Practice Principles are considered and implemented where possible and appropriate.
2. It is recommended that the NatureSpace certificate is submitted to this planning authority at least 6 months prior to the intended commencement of any works on site.
3. It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority (which permits the development to proceed under the District Licence WMLOR112, or a 'Further Licence') are not licensed under the great crested newt District Licence. Any such works or activities have no legal protection under the great crested newt District Licence and if offences against great crested newts are thereby committed then criminal investigation and prosecution by the police may follow.
4. It is essential to note that any ground investigations, site preparatory works and ground / vegetation clearance works / activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those detailed in the planning condition above which refers to the NatureSpace great crested newt mitigation principles would give rise to separate criminal liability under the District Licence, requiring authorised developers to comply with the District Licence and (in certain cases) with the GCN Mitigation Principles (for which Natural England is the enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (as amended) (for which the Police would be the enforcing authority).

CASE OFFICER: Rebekah Morgan