

Case Officer: Rebekah Morgan

Applicant: Oxford New Energy

Proposal: Development of a ground mounted solar farm incorporating the installation of solar PV panels, associated infrastructure and access, as well as landscape planting and designated ecological enhancement areas.

Ward: Launton And Otmoor

Councillors: Cllr. Gemma Coton, Cllr. Julian Nedelcu and Cllr. Alisa Russell

Reason for Referral: Major development

Expiry Date: 16 January 2024

Committee Date: 11 July 2024

This application was subject to a Committee Members Site Visit, which took place on 11 July 2024.

SUMMARY RECOMMENDATION: GRANT PERMISSION

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

1.1. The application site comprises 43.78ha of agricultural land located approximately 3.5km to the east of Kidlington and approximately 4.5km north of the built-up area of Oxford. The site is comprised of agricultural land consisting of open fields and vegetative field boundaries. The northern edge of the site is bounded by the River Ray.

2. CONSTRAINTS

2.1. The following constraints are relevant to the application:

- The site is within the Oxford Green Belt
- There are Public Rights of Way (PROW) within the vicinity of the site
- The site is adjacent to a RSPB reserve – Otmoor
- 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 site falls within Flood Zones 2 and 3
- The River Ray runs adjacent to the site
- There are Listed Buildings within close proximity of the site
- The site is within 2km of Sites of Special Scientific Interest
- A small part of the site is within a Conservation Target Area
- The site is in close proximity to a Local Wildlife site – RSPB Otmoor
- The site is within a NERC Act S41 Habitat

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks consent for a 26.6 MW Solar Photovoltaic (PV) Array for a temporary period of 40 years. The proposal includes the provision of ground-mounted photovoltaic solar arrays and associated infrastructure, access, landscape planting and ecological enhancements. For clarity, the proposal does not include the provision of any battery storage on site.
- 3.2. The drawings show the photovoltaic arrays would be mounted a minimum of 90cm from the ground with the top edge being a maximum of 2.8m from the ground. The panels would be set out in rows. They would be orientated to maximise solar gain. A temporary tract for construction traffic would access the site via a field entrance on a no through road, off the B4027, just before entering the village of Noke. The operational access to the site would be at the other end of the village.

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:

20/00653/PREAPP: Development of a ground mounted solar farm incorporating the installation of solar PV panels, associated infrastructure and new access.

The advice concluded that the development could not be supported at the time based on the submitted information. In particular, the following concerns were highlighted:

- The application is significant development within the Oxford Green Belt and is considered inappropriate development. Very special circumstances are therefore required if the principle of development is to be supported, but this has not been demonstrated through the pre-application submission.
- The proposal includes development that would be partly within the Otmoor Conservation Target Area. This has not been justified and neither has it been demonstrated that the requirements of Policy ESD11 of the Local Plan will be met.
- The proposal includes development within Flood Zones 2 and 3. It needs to be demonstrated through an appropriate Flood Risk Assessment that the development is “essential infrastructure” and that the exception and sequential tests can be met.

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 **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

- Impact on wildlife
- Impact on the enjoyment of walkers – loss of amenity
- Inappropriate location in the Green Belt
- Loss of agricultural land (Best and Most Versatile)
- Solar arrays are inefficient
- Change to industrial land is unacceptable
- Ecologically important area
- Impact on RSPB wetland
- Impact on migratory birds
- Impact on protected species
- Landscape impact and impact on the character of the area
- Impact on the Otmoor Conservation Target Area
- Traffic impacts
- Increased risk of flooding to Islip and Oxford
- Solar panels should be located on brownfield sites or roofs of existing buildings
- Detrimental to the openness of the Green Belt
- Impact on heritage assets
- Fails to protect the intrinsic character and beauty of the countryside (NPPF)
- Impact on public right of way through site
- Site cannot be screened from viewpoint 5
- Ecological mitigation measures outside red line boundary
- Benefit of scheme exceeds local demand
- Concerns regarding community benefit payment
- Low baseline values of agricultural land not justified
- Assessment on grid connection and availability should be considered impartially
- Minimal contribution to the district's renewable energy production
- Contrary to local and Government policy
- Insufficient justification of very special circumstances
- More suitable alternatives

Support

- The Pathway to Zero Carbon Oxfordshire report highlights the scale of change needed.
- Addresses climate change
- Support for the principle of the proposal
- Sensitively planned scheme that balances the Green Belt and needs of the area with the need to address climate change
- If executed with care, the land can still provide an ecological environment
- Solar is part of our children's future and needs to go somewhere

General comments

- Safety concerns about the entry and exit access road
- 'Lake effect' in respect of birds

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. FENCOTT AND MURCOTT PARISH COUNCIL: no comments or objections received at the time of drafting the report.
- 7.3. HORTON-CUM-STUDLEY PARISH COUNCIL: **object** to the application on the grounds of ecological impacts; impact on Green Belt; lack of very special circumstances to justify development in this instance; landscape and visual harm; seasonal impact on solar energy limits output.
- 7.4. ISLIP PARISH COUNCIL: **object** to the application on the grounds of industrialisation of the Green Belt; visual impact; bird displacement; impact on natural resource of Otmoor; access roads may open up potential for further development; impact on views from surrounding villages; impact on rain infiltration; more suitable sites in District; Oxford refused a similar application; loss of productive farmland.
- 7.5. NOKE PARISH MEETING: **object** to the application on the grounds of landscape and biodiversity impacts, including impact on Conservation Target Areas; visual impact on local landscape; impact on heritage assets and their settings; impact on Green Belt; residential amenity impact.

A request has been made for the permissive footpath to the east to be improved.

A request has also been made for a financial contribution of £20,00 (previously offered by the landowner) to be used by the Noke and Oddington Parish Councils to be spent on community benefits.

- 7.6. ODDINGTON PARISH COUNCIL: **object** to the application on the grounds of adverse effects being far outweighed by benefits of production of renewable energy; contrary to relevant Policy; Green Belt impact; visual impact including from Rights of Way; impact on setting of heritage assets; views of open countryside blocked; energy generated is likely to be less than stated in submission; loss of productive agricultural land; increased biodiversity inconsistent with keeping sheep; impact on nearby RSPB reserve,
- 7.7. BECKLEY AND STOWOOD PARISH COUNCIL: **object** on the grounds of Green Belt impact; impact on nearby RSPB reserve; flood risk; impact on wildlife; loss of agricultural land; impact on views; impact on public rights of way; impact during construction; renewable energy output.
- 7.8. CAMPAIGN TO PROTECT RURAL ENGLAND: **object** on the grounds of Green Belt impact; loss of Best and Most Versatile agricultural land; restrictions on output of the grid connection affect provision of renewable energy potential of site; impact on heritage assets; views of open countryside compromised; impact on biodiversity of site.
- 7.9. BERKS, BUCKS & OXON WILDLIFE TRUST: **object** on grounds of impact on Otmoor SSSI, Impact on Otmoor Local Wildlife site, impact on RSPB reserve, lake effect whereby birds mistake large area of solar panels as a lake, collision with panels, confusion regarding reflections, attempts by birds and bats to feed from the panels. Potential for birds to collide with security fencing. Conditions suggested.
- 7.10. BRITISH HORSE SOCIETY: **comment** that they are concerned regarding the increase in HGV movements during construction and the impact on safety of local horse riders. Request submission of a CTMP with specific section on awareness of equestrian users on the adjoining road network and appropriate measures to ensure all drivers are educated on safe interactions.
- 7.11. ENVIRONMENT AGENCY: **no objection** with regard to biodiversity and ecology.

Following the submission of further details, the Environment Agency has confirmed their previous concerns regarding flood risk have been addressed and they withdraw their previous objection. Detailed comments have been provided and recommendations for planning conditions.

- 7.12. HISTORIC ENGLAND: **comment** that the solar farm would cause less than substantial harm to the scheduled Islip Roman Villa and Grade II listed buildings at Manor Farm, harm results from the change to settings, loss of Roman archaeological remains. Harm is at minor end of scale. Authority to include this harm when carrying out balancing exercise of harm/public benefit. With regard to mitigation of harm to undesignated archaeological remains defer to advice of OCC Archaeology.
- 7.13. LONDON OXFORD AIRPORT: no comments or objections received at the time of drafting the report.
- 7.14. NATIONAL AIR TRAFFIC SYSTEMS: **no objection**.
- 7.15. NATIONAL GRID: no comments or objections received at the time of drafting the report.
- 7.16. NATIONAL PLANNING CASEWORK UNIT: no comments or objections received at the time of drafting the report.
- 7.17. NATURAL ENGLAND: **no objection** and no concern with regard to soil classification.
- 7.18. NATURE SPACE: **comment** that ecological report states that development is at risk of injuring or killing great crested newts and that a licenced approach will be taken either via District Licence scheme or Natural England.
- 7.19. OPEN SPACES SOCIETY: no objections or comments received at the time of drafting the report.
- 7.20. RAMBLERS ASSOCIATION: no objections or comments received at the time of drafting the report.
- 7.21. ROYAL SOCIETY FOR THE PROTECTION OF BIRDS: no objection subject to conditions.
- 7.22. SOUTH OXFORDSHIRE DISTRICT COUNCIL: **comment** that the landscape is sensitive in this area (Ancient Woodland, historic villages with Conservation Areas and listed buildings) and landscape assessment should consider wider landscape impact, including cumulative impact with other solar farms, and impact from views and fabric and character of landscape. Site is in close proximity to Oxford heights landscape character area and Wooded Hills and Valleys sub-area. Request careful management of traffic generated. Close proximity to Woodeaten Quarry, Woodeaton Wood and Otmoor SSSI's.
- 7.23. THAMES VALLEY POLICE (DESIGNING OUT CRIME OFFICER): no comments or objections received at the time of drafting the report.
- 7.24. THAMES WATER: **no comments** to make.
- 7.25. WESTERN POWER: **comment** that it is out of their area.
- 7.26. OCC ARCHAEOLOGY: **no objection** subject to conditions.
- 7.27. OCC HIGHWAY AUTHORITY: **no objection** subject to entering into a Section 278 agreement and conditions.

In response to a discussion relating to requested planning conditions, the Local Highway Officer has confirmed:

- They are happy for the submitted Construction Traffic Management Plan in conjunction with the Transport Technical Note. The development can be conditioned to carry out the works in accordance with these documents.
- The construction access should be temporary only and will not be required beyond the construction phase.
- The required S278 works can be secured via a planning condition.

7.28. OCC LANDSCAPE/GREEN INFRASTRUCTURE: District Council Landscape Officer to be consulted on proposals and comments taken into account.

7.29. OCC LEAD LOCAL FLOOD AUTHORITY: **no objection** subject to conditions.

7.30. OCC RIGHTS OF WAY: no comments or objections received at the time of drafting the report.

7.31. CDC ARBORICULTURE: **no objection**, condition suggested.

7.32. CDC CONSERVATION: **no objection**; less than substantial harm with public benefit of providing green energy to the grid.

7.33. CDC ECOLOGY: **no objection** subject to conditions but comment that they are concerned regarding impact upon wetland or migrating birds and aquatic invertebrates. There is insufficient evidence to show that there will not be any impact. Location is undesirable in ecological terms.

7.34. CDC ENVIRONMENTAL HEALTH: **no comments** to make.

7.35. CDC DRAINAGE: **no objection** as the flood risk at the site has been considered and an acceptable surface water management plan developed that accommodates the small impermeable areas on the site. Acknowledged that the solar farm will provide significant sustainability benefits in generating renewable energy. The Surface Water Management Plan contains appropriate attenuation, and that as the proposal is for carbon free generation of power they are satisfied that the required Exception Test can be passed and all flood risk considerations will be appropriately managed.

7.36. CDC LANDSCAPE SERVICES: **object** on the grounds of landscape and visual harm; inappropriate development in the Green Belt; harm to the openness of the Green Belt.

N.b. The Council choose to engage an independent consultant to review of the Landscape and Visual Assessment as this is not the area of specialism of the Council's landscape officer. The independent appointed was Nicola Brown of Huskisson Brown Associates.

7.37. HUSKINSSON BROWN ASSOCIATES (INDEPENDENT LANDSCAPE CONSULTANT): The Landscape Consultant appraised the applicant's submitted LVIA and provided a detailed 33 page report. The report concluded:

'Overall, it is considered that the overall landscape effects assessed are slightly understated due to not considering the potential impacts of the proposed planting scheme on the perceptual qualities of the open farmland landscape and in part due to a potential misapplication of the methodology criteria'.

The issues raised in the detailed report are considered in greater detail in the officer assessment below.

7.38. CDC PLANNING POLICY: **object** in principle as inappropriate development in the Green Belt.

7.39. CDC PROPERTY AND ASSETS: no comments or objections received at the time of drafting the report.

7.40. CDC RIGHTS OF WAY: **no objections** subject to conditions.

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
- ESD 11: Conservation Target Areas
- 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)

- ENV1: Development likely to cause detrimental levels of pollution
- C8: Sporadic Development in the countryside
- C25: Development affecting the site or setting of a schedule ancient monument.
- 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
- Principle of development in the Green Belt
- Impact on the character and appearance of the area
- Highway safety and impact on Public Rights of Way
- Flooding/Drainage
- Heritage impact
- Ecology impact
- Residential amenity

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.

9.5 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 152 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 153 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 156 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 2015 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 154 of the NPPF and 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 142 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 143 of the NPPF, in that the proposed development would encroach into the open countryside.
- 9.13 In their Planning, Design and Access Statement the applicant accepts...*that the proposal would cause 'harm' to the Green Belt by reason of inappropriateness and because of the reduction in openness it would involve. In addition, there would be a limited degree of inevitable 'harm' to the landscape, to which moderate weight is attached, and a very minor level of 'harm' to the significance of the Grade II Listed heritage assets at Manor Farm, through changes to their setting, to which limited weight is attached.*
- 9.14 In order to attempt to overcome the harm identified the applicant has presented a very special circumstances (VSC) case which sets out the perceived benefits of the Development which are as follows:
- Assists in reducing carbon emissions and combating climate change and ensuring local energy security which would assist in the Council's commitment to renewable energy set out in the Climate Emergency and Climate Action Framework 2020.
 - no suitable non-Green Belt sites in the District which could accommodate the proposal due to grid connection and land area constraints.
 - Delivering benefits to the local community such as the new permissive footpath.
 - Ecological and arboricultural benefits which, it is argued, result in delivering significant biodiversity net gain.
 - Promotes rural diversification and thereby supports rural businesses

- The agricultural land is not identified as best and most versatile.
- Non-permanent nature of the development and potential for some agricultural use during the lifetime of the development (sheep grazing).

9.15 The final VSC point that the applicant makes is that *there are a number of site-specific environmental considerations waying in favour of the development*. It is the veracity of this statement, assessed in the sections below, that will be the determining factor in the establishing whether the proposal's VSC case overcomes the harm identified, set against the background of recent case law. The preceding points, whilst adding various degrees of weight to the applicant's case, do not introduce arguments that are not normally made in respect of other similar schemes.

Impact on character and appearance of the area

9.16 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.

9.17 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.

9.18 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.”

9.19 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.

9.20 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.

9.21 The planning application was supported by a Landscape and Visual Impact Assessment (LVIA) which concluded the following:

Overall, the proposed development will result in limited impacts at a localised level. The scale and form of proposed development is likely to result in impacts which are limited to the site area and its immediate context. In the wider landscape, potential views of the proposals are generally filtered by intervening vegetation. Those from elevated positions will be reduced by additional landscape planting along internal field boundaries within the site and along its boundaries.

9.22 In order to ensure the accuracy of the conclusions reached in respect of the landscape and visual effects of the solar farm, the Council had the LVIA assessed by an independent landscape consultant who specialised in critiquing such reports. The 33 page report identified a number of areas of disagreement in particular: with the methodology; an absence of commentary on certain aspects; and differences in the level of harm attributed.

9.23 The consultant reached the following conclusion:

Overall, it is considered that the overall landscape effects assessed are slightly understated due to not considering the potential impacts of the proposed planting scheme on the perceptual qualities of the open farmland landscape and in part due to a potential misapplication of the methodology criteria.

9.24 The consultant concluded that the harm of the solar farm to the landscape character is likely to be more pronounced on completion than stated: *At Year 1, the changes to landscape character and the perceptual, aesthetic and functional aspects of the landscape would be most pronounced for this landscape character type (i.e. seemingly falling into the threshold of ‘Medium’ magnitude in LVIA Table A.3).*

9.25 When assessing the development through time the consultant *consider that a higher magnitude of effect would be expected at Year 1 when the methodology is applied as stated and the impact of planting is considered in the context of the perceptual and functional qualities of the site as open farmland. We would agree that this has the potential to reduce over time, in particular noting the 40 year lifespan of the solar park itself. However as noted, the creation and enhancement of landscape features needs to be weighed against the loss of open qualities.*

9.26 The impact on the landscape as a result of the planting which would not only change the appearance of the open landscape when viewed from a distance, but it is also

argued that the *amenity from the public footpath through and adjoining the site needs to be taken into consideration.*

- 9.27 It is therefore argued that by attempting to screen soften the impact of the solar farm from elevated long range views from public rights of way (PROWs) the proposal would change the open agricultural nature of this part of the landscape whilst also affecting the amenity of people using the footpath surrounding and within the development. As part of their Landscape rebuttal letter, the applicant's agent maintains that *the proposed landscape strategy is considered to be entirely in-keeping with prevailing local landscape character and existing visual experiences, at a local level, when navigating local public rights of way.*
- 9.28 The landscape consultant is broadly supportive of the conclusions reached in the LVIA and accepts that there will be differences in approach when it comes to the methodology employed and the conclusions reached. This point was picked up by the applicant's agent who pointed out that the Landscape Institute guidelines state that it is up to the individual landscape consultant to develop their own methodology for undertaking a Landscape & Visual Impact Assessment. There is however an acceptance by the applicant's agent that the methodological areas of difference relate to the age of the LVIA (produced in 2022) and the subsequent changes to the guidelines.
- 9.29 In conclusion, the proposed solar farm would have an adverse impact on the landscape. The harm identified is going to be most significant in the short-term as the development would be very evident from the footpaths on higher ground overlooking Otmoor. The harm would however reduce through the lifetime of the proposal as the planting becomes more established.

Highway safety and impact on Public Rights of Way

- 9.30 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.
- 9.31 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.
- 9.32 The construction phase would require approximately 12 HGV movements per day which whilst on a lightly trafficked road had the potential to result in a safety risk on an S-bend stretch in the road at the construction access point. Following the receipt of additional information in respect of the proposed visibility splays, in respect of the access taken from Noke Village Road, the Local Highway Authority withdrew its objection of the proposal subject to a legal agreement (Section 278) and appropriate

conditions. The proposal is therefore considered to be acceptable in respect of highway safety terms.

- 9.33 In respect of the public rights of ways, the County raised no objections subject to compliance with a number of standard measures and conditions. They had also sought to upgrade an existing and proposed a section of footpath to be converted into a bridleway to enable more riding access to Otmoor. They later withdrew this request once they accepted that it would impinge upon the Ecology Enhancement Area.

Flooding/drainage

- 9.34 Government guidance contained within the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. It explains 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.'*
- 9.35 The NPPF continues by stating that *'major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.'*
- 9.36 Policy ESD6 of the CLP 2015 echoes 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.
- 9.37 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.
- 9.38 The northern part of the site lies within flood zones 2 and 3, which are considered to be at the highest risk of flooding, although the majority of the site is within flood zone 1. The site is also within 20 metres of a watercourse and there are a number of ponds in the vicinity.
- 9.39 A Flood Risk Assessment has been submitted with the application, explaining that all essential infrastructure would be located within flood zone 1 and all solar panels would be raised 0.90m above ground level, thus rendering the panels to be free from flooding. A number of mitigation proposals are included in order to reduce the risk of flooding to the flood zone to an acceptable level, including spacing between the piles supporting the panels and using the largest reasonably practical mesh in the securing fencing. A swale will be used to capture and store additional surface water run-off,

with an attenuation device provided should percolation testing prove infiltration rates to be poor, attenuating runoff from the site to pre-development greenfield runoff rates.

- 9.40 Given the limited possibilities to connect to the grid, Officers have no reason to dispute the assertion that the proposed solar farm could not be located elsewhere.
- 9.41 The CDC Drainage Officer has confirmed that as “essential infrastructure” for the carbon-free generation of power, they are satisfied that the Exception Test can be passed and that all flood risk considerations will be appropriately managed. Officers agree that the sustainability benefits of the development to the community, through the generation of renewable energy and anticipated reduction in the impact of climate change would outweigh the flood risk in this location. Further, the FRA demonstrates that the development would be safe for its lifetime.
- 9.42 Following the submission of additional information regarding the volume of compensatory storage and the design of the perimeter fencing, the Environment Agency has now withdrawn their objection and confirmed the additional information overcomes their previous concerns.
- 9.43 The proposed development is therefore considered to provide sustainability benefits to the community whilst remaining safe for its lifetime and avoiding the risk of flood risk elsewhere, in accordance with the above Policies.

Heritage Impact

- 9.44 The site lies around 600 metres east of a Scheduled Ancient Monument (SAM) known as Islip Roman Villa. The farmhouse and agricultural buildings at Manor Farm in Noke are Grade II listed and positioned to the south of the site. There are a number of other listed buildings further afield surrounding the site, and the Islip Conservation Area lies to the west.
- 9.45 Historic England has advised that the principal significance of the SAM Islip Roman Villa is the below-ground archaeological remains and the important historical information that they contain. There are no above ground remains, although the terracing into the hillside can be appreciated. The northern rural view of the valley of the River Ray, of which the site forms a part, contributes to the setting of the Scheduled Ancient Monument as it illustrates the deliberate siting of the villa on the high ground, and the agricultural surroundings and estate of the villa. The site also forms a part of the setting of the Grade II listed buildings at Manor Farm and plays a role in forming the agricultural character and appearance of the area that explains the development of the surrounding villages and farms, some of which are both designated and non-designated heritage assets.
- 9.46 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.*
- 9.47 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.
- 9.48 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.

- 9.49 The NPPF goes on to explain that any harm to, or loss of, the significance of a designated heritage asset (from its alteration, or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of Grade II listed buildings should be exceptional, and assets of the highest significance such as Scheduled Monuments, should be wholly exceptional.
- 9.50 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use. Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.51 Saved Policy C25 of the CLP 1996 states that in considering proposals for development which would affect the site or setting of a Scheduled Ancient Monuments, the Council will have regard to the desirability of maintaining its overall historic character, including its protection, enhancement and preservation where appropriate.
- 9.52 The applicant has undertaken an archaeological assessment of the site, indicating that there is a concentration of archaeological remains in the southern part of the site. The remains found are of a pattern of enclosures, trackways and field boundaries that possibly begin the late iron age, together with quarry pits and evidence of crop processing. Pottery is dated to the 3rd or early 4th Century, suggesting connection with the later phases of the villa, where similar dated pottery has been found. Historic England has confirmed that they consider the remains to form a part of the setting of the Roman villa, and that they make a minor contribution to its significance, although they are not of national significance.
- 9.53 Historic England has advised that the proposed solar farm would represent a minor change to the northern view from the villa, constituting less than substantial harm to the SAM, but that this is at the minor end of the scale of harm. The loss of archaeological remains would be harmful, although would constitute very minor harm to the significance of the SAM. Temporary harm would be caused during the construction period. Historic England also advise that less than substantial harm would be caused to the setting of the Grade II listed buildings at Manor Farm, although again, this is at the low end of the scale. This is echoed in the response from the Conservation Officer.
- 9.54 Officers are in agreement with the conclusions drawn by both the Conservation Officer and Historic England in that less than substantial harm would be result to the SAM and Grade II listed buildings at Manor Farm through development within their setting. In such cases, as the NPPF advises, this harm must be weighed against the public benefits of the proposal.

Ecology Impact

- 9.55 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.

- 9.56 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.
- 9.57 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.
- 9.58 Policy ESD10 of the CLP 2015 seeks 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.
- 9.59 The eastern edge of the site lies within the Otmoor Conservation Target Area (CTA). The principal aim of a CTA is to focus work to restore biodiversity at a landscape scale through the maintenance, restoration and creation of UK BAP priority habitats. CTAs are considered to represent the areas of greatest opportunity for strategic biodiversity improvement in the District and as such, development will be expected to contribute to the achievement of the aims of the target areas through avoiding habitat fragmentation and enhancing biodiversity.
- 9.60 Policy ESD11 of the CLP 2015 states that where a development is proposed within or adjacent to a CTA biodiversity surveys and a report will be required to identify constraints and opportunities for biodiversity enhancement. Development that would prevent the aims of a CTA being achieved will not be permitted. Where there is potential for development, biodiversity enhancement will be secured.
- 9.61 The above policies are supported by Government guidance contained within 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.
- 9.62 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.
- 9.63 Natural England Standing Advice states that an LPA need only ask an applicant to carry out a survey if it's likely that protected species are present on or near the proposed site.

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')

9.64 The Standing Advice sets out habitats that may have the potential for protected species. The site consists predominantly of open agricultural fields, bounded by mature trees and hedgerows. The site is partially within and adjacent to the Otmoor CTA and contains some NERC Act Section 41 habitat as coastal and floodplain grazing marsh. The site is within 2km of the Otmoor and Woodeaton Quarry and Woodeaton Wood SSSI's, and in close proximity to the RSPB Otmoor Local Wildlife Site. A number of ponds have been identified in the vicinity and part of the site with within 20 metres of a watercourse. A number of protected and notable species have been identified in the area. The site is therefore considered to have the potential to be a suitable habitat for a range of protected and notable species.

9.65 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.

9.66 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.

9.67 An Ecological Appraisal has been undertaken at the site. In summary, the survey identified a number of habitat features including an orchard, pond, hedgerows, semi-natural broad-leaved woodland and a river. In terms of protected and notable species the survey has identified that the site is suitable for use by protected species, although subject to provisions within the security fencing to allow movement and recommendations regarding the timing of works, the survey concludes that the development would not cause harm to badgers, brown hare, hedgehog, harvest mouse, otter, water vole, dormouse, bat, reptiles, invertebrates and birds, with the exception of the loss of nesting sites for 6 breeding pairs of skylarks. There is a risk of development injuring or killing great crested newts, although this is considered to be low. The applicant would need to apply for a licence from Natural England for these works or apply via the District Licence scheme. Biodiversity enhancements are proposed as part of the development and a metric has been submitted to support this.

9.68 Natural England, the Environment Agency and the RSPB have raised no objection to the proposal on ecological grounds. The Council Ecology Officer has raised no objection, although has expressed concern regarding the proximity of the site to the Otmoor Local Wildlife Site, the RSPB nature reserve and the Otmoor SSSI, which are among the most valuable ecological sites in the District. The CDC Ecology Officer clarified on 15 February 2024 that in light of the lack of definitive evidence that harm would arise as a result of the development, and as there is no obligation to consider alternative locations on ecological grounds, no objection was raised.

9.69 BBOWT has maintained their objection the scheme following the submission of an amended Ecological Appraisal, referring to guidance from Natural England and the RSPB advising that utility scale solar development should avoid, or not be built on or

near, protected areas. The concern arises that very large, unbroken expanses of solar panels could potentially mimic water surfaces, resulting in the “lake effect” whereby birds, bats and insects mistake the solar panels for a body of water, however there is currently no clear evidence to support this theory. There is also concern regarding the noise and pollution during construction of the solar farm, and for birds to collide with the proposed fencing. BBOWT consider that there is not yet sufficient evidence that a solar farm can be installed in close proximity to a wildlife site of such value without harm being caused to certain species and have therefore applied a precautionary principle.

- 9.70 Whilst the concerns of BBOWT are acknowledged, given that an ecology assessment has been carried out, together with recommendations for mitigation of harm, and the lack of objection from Natural England, the Environment Agency, the RSPB and the CDC Ecology Officer, and without evidence to confirm that harm would be caused to protected species as a result of a possible “lake effect”, Officers do not consider that the refusal of the application on this ground could be sustained at Appeal.
- 9.71 The applicant has explained that there are no bodies of water within the site, and so it is highly unlikely that low flying wildfowl collide with 2.1 metre tall fencing, given that they would have to have just taken off or be landing on the water. The surface area of the panels would anti-reflective surface and would have pale borders forming a grid in order to differentiate panels which has been proven to significantly reduce the attraction of aquatic insects (as set out in the submitted BSG Ecology ‘Response to Consultee Responses’ letter). Further, the site would only be lit by infrared security lighting, which is not visible to birds or mammals. Skylark plots would also be provided to enhance breeding territories.
- 9.72 Officers are in agreement with the points raised by the applicant, and do not consider the height of the fence to pose a threat to birds. The scope of permitted development with regard to fencing should also be borne in mind. The limited lighting of the site is welcomed, as are the precautions with regard to insects, and these features can be controlled via condition.
- 9.73 With regard to construction noise and disturbance, Officers consider that this is likely to be similar to that of the authorised use of the site for agricultural purposes, of which there is no control at present. However, a Construction Environment Management Plan can be secured via condition to ensure that the development does not result in harm in terms of environmental pollution.
- 9.74 To conclude, Officers are of the opinion that the development will not result in harm to protected species or their habitat, based on the evidence available at the time of writing. Biodiversity enhancements are proposed as part of the scheme, supporting the aims of the Conservation Target Area designation. The proposal therefore accords with the above policies in terms of ecological impact.

Residential Amenity

- 9.75 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.
- 9.76 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’.

- 9.77 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.
- 9.78 The Council's Environmental Health Officer considered the inverter noise specification and concluded that the residents of the closest properties would not be unduly affected.
- 9.79 The closest property to the site is Logg Mead House, which is approximately a minimum of 120m to the north of the proposed development. The development is screened from this property by line of trees running along the north edge of the application fields. Officers are satisfied that with the additional proposed planting any harm to residential amenity is going to be negligible and the development would therefore comply with the aforementioned local plan policies and the NPPF.

Other matters

- 9.80 Noke Parish Meeting has requested a financial contribution to be paid to both Noke and Oddington Parish Meetings to be spent on community benefits should the application be approved. They advise *'there are many projects in both these rural communities that could benefit from investments so they can be enjoyed by all, including visits by other CDC residents'*.
- 9.81 The PPG 'Planning Obligations' sets out the Government's guidance on securing planning obligations. The guidance advises that planning obligations assist in mitigating the impact of unacceptable development. Planning obligations may only constitute a reason for granting planning permission if they meet the tests. The obligations must be:
- Necessary to make to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 9.82 The request for a financial contribution is not considered to meet these tests. The request has not explained how the requested sum has been calculated and there is no clear plan or projects identified for spending the money (these would need to be directly related to the impacts of the development). Furthermore, based on the appraisal set out above, a financial contribution is not considered necessary to make the development acceptable in planning terms. Therefore, a contribution has not been requested for this proposal.

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.
- 10.1. 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').

- 10.2. Social objectives – The applicant is proposing to incorporate a permissive footpath into the scheme. The development would not result in significant detriment to the living amenities of nearby residents.
- 10.3. Environmental objectives – The solar farm, which would only be in place for 40 years, would provide up to 26.6 megawatts of installed electrical generation capacity, delivering significant environmental benefits by reducing carbon emissions. The development would thereby assist with delivering the Council's commitments under the Climate Emergency and Climate Action Framework 2020. There would be biodiversity enhancement which will be of benefit to the Conservation Target Area. There would be harm to the visual amenities of the area particularly when the site is viewed from higher ground. Although this would lessen though time, the planting around the development result in some harm to the open nature of this part of the landscape. There would be less than substantial harm (albeit at the lower end of the scale) to the setting of the nearby scheduled ancient monument.
- 10.4. The relevant pros and cons of the scheme set out above help to establish whether the VSC case is so compelling that outweighs the harm that would result to the openness of the Oxford Green Belt. In order to establish whether such a high bar has been overcome it is important to assess the development in respect of recent case law, whilst accepting the limitations of drawing too many parallels given the number of variables that characterise each individual site.
- 10.5. The applicant cites the solar farm, allowed at appeal, at Rowles Farm (13/01027/F – appeal reference APP/C3105/A/13/2207532) which is approximately 2km from the application site. Despite its proximity and the presences of PROWs running through the site, this is perhaps not a quite an appropriate comparison given that the landscape impact is largely restricted to the confines of the site. The applicant has also provided details of other appeal examples within their summary letter (dated 1st February 2024).
- 10.6. A recent appeal recovered by the Secretary of State (SoS) for determination (Hertsmere Borough Council appeal reference N1920/W/22/3295268) gave *very significant positive weights* to a solar farm which would generate 49.9MWs. The attribution of such weight is consistent with other appeal decisions. In this case, the appeal was dismissed as the Inspector/SoS found that the scheme would have a significant impact on the landscape's character as well as the settings of a number of listed buildings. Whilst there are parallels with the scheme under consideration, the landscape harm resulting from the Otmoor site is not considered to be significant. Also, whilst a negative, English Heritage accepts that the *less than substantial harm* to the SAM is at the lower end of the scale.
- 10.7. Another recent appeal recovered by the SoS for determination (North Herts Council appeal reference APP/X1925/V/23/3323321) is perhaps a closer comparison in respect of landscape harm, when the Inspector concluded that there would be *moderate adverse impact on the landscape character area, both following construction (year 0) and when planting had become established (year 10)*. In respect of a nearby SAM the SoS, concluded that there would be a moderate level of harm to its setting. The SoS disagreed with the Inspector's recommendation and approval was granted. This decision reflects the current perception that unless there is relatively significant harm identified, the positive of additional renewable energy is normally sufficient to overcome conflict with green belt policy.

10.8. Whilst this is still a very balanced decision, it is therefore nonetheless concluded that the VSC case outweighs the harm to the openness of the Oxford Green Belt and that therefore when considered as a whole, the economic, social and wider environmental benefits of the scheme outweigh any adverse effects on the landscape and the setting of the SAM. The proposal is therefore considered to represent a sustainable form of development and it is recommended that planning permission be granted.

11. RECOMMENDATION

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

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 P19-2636_22 Rev B – [Site Location Plan]
 - Drawing number P19-2636_003_1 Rev M – [Development Framework Plan]
 - Drawing number GN-NK-PLA-04 Rev 00 – [Inverter Station Elevations and Plan]
 - Drawing number GN-NK-PLA-06 Rev 00 – [40' Spares Container Elevations and Plan]
 - Drawing number GN-NK-PLA-11 Rev 00 – [20ft Welfare Container Elevations and Plan]
 - Drawing number GN-NK-07 Rev 00 – [Private Substation Elevations and Plan]
 - Drawing number GN-NK-PLA-08 Rev 00 – [DNO Substation Elevations and Plan]
 - Drawing number GN-NK-PLA-03 Rev 00 – [PV Module Elevation and Cross Section]
 - Drawing number GN-NK-PLA-09 Rev 01 – [CCTV Detail]
 - Drawing number GN-NK-PLA-10 Rev 00 – [Fence Detail]
 - Drawing number P19-2636_14H – [Detailed Soft Landscape Proposals – Sheet 1 of 7]
 - Drawing number P19-2636_15H – [Detailed Soft Landscape Proposals – Sheet 2 of 7]
 - Drawing number P19-2636_16H – [Detailed Soft Landscape Proposals – Sheet 3 of 7]
 - Drawing number P19-2636_17H – [Detailed Soft Landscape Proposals – Sheet 4 of 7]

- Drawing number P19-2636_18H – [Detailed Soft Landscape Proposals – Sheet 5 of 7]
- Drawing number P19-2636_19H – [Detailed Soft Landscape Proposals – Sheet 6 of 7]
- Drawing number P19-2636_20H – [Detailed Soft Landscape Proposals – Sheet 7 of 7]
- Drawing number P20-2636-21A – [Illustrative Landscape Sections A-C]
- Drawing number J14174-NUK-ZZ-ZZ-DR-D-3003 Rev V01 – [Floodplain Compensatory Storage]
- Drawing number P19-2636_004-1 – [Connection Power Line Constraints Map]
- Planning, Design and Access Statement (reference: P19-2636) prepared by Pegasus Planning Group dated May 2022.
- Inverter Noise Specification (reference: SC 4000 UP/SC 4200 UP/SC 4600 UP) prepared by SMA Solar Technology
- Geophysical (Gradiometer) Survey (reference: NGR 454500 214000) prepared by Pegasus Planning Group and Green Nation dated July 2021.
- Construction Traffic Management Plan (reference: P19-2636/TR/01) dated October 2021.
- Transport Technical Note (reference P19-2636 TR02) prepared by Pegasus Planning Group dated October 2022.
- Farm Diversification statement prepared by Manor Farm dated November 2022.
- Network Availability Assessment (reference: 22-669-5002-7.1) prepared by Decerna dated February 2023.
- Pre-development Arboricultural Report and Method Statement (Revision 3) prepared by Wharnccliffe Trees and Woodland Consultancy dated 04 February 2023.
- Ecological Appraisal (reference P20-745 Manor Farm) prepared by BSG Ecology dated 16/02/2023.
- Flood Risk Assessment (reference: J-14174 edition 06) prepared by Nijhuis Saur Industries 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 ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 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 commencement of works above slab level in respect of the development the development hereby approved, a scheme for landscaping the site shall be submitted to and approved in writing by the Local Planning Authority which shall include:

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch, etc.),

(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 landscaping including hard surface areas, pavements, pedestrian areas and steps,

(d) details of the enclosures along the boundaries of the site.

All planting, seeding or turfing included in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first use of the development and shall be maintained for a period of 5 years from the first use of the development. Any trees and/or 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 next planting season with others of similar size and species. The approved hard landscaping and boundary treatments shall be completed prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of visual amenity of the area and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

Landscape Maintenance

6. 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 Part 1 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 (PRoW)

7. No development shall commence unless and until full details of the temporary means of access between the land and the highway (construction phase) and the permanent means of access between the land and the highway (post-construction phase), including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The temporary 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 for the period of the construction of the development (Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times). Within 6 months of the completion of construction of the development, the temporary access shall be replaced with the permanent access which shall be constructed in accordance with the approved details and shall be retained and maintained for the life of the development.

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.

8. Prior to commencement of the development hereby approved, full details of any proposed temporary signage related to the construction of the development shall be submitted to and approved in writing. The approved signage shall be installed in accordance with the approved details prior to first use of the construction access and remain in situ for the duration of the construction phase.

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. The development shall be carried out in accordance with the Construction Traffic Management Plan (reference: P19-2636/TR/01) dated October 2021 and the Transport Technical Note (reference: P19-2636 TR02) dated October 2022.

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.

10. Prior to commencement of the development hereby approved, full details of any proposed internal access tracks/roads shall be submitted to and approved in writing. The development shall be carried out in accordance with the approved details and retained and maintained thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. 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.

12. No materials, plant, vehicles, temporary structures or excavations of any kind shall be deposited/undertaken on or adjacent to the Public Right of Way that obstructs the public right of way whilst development takes place. Avoidable damage to Public Rights of Way must be prevented. Where this takes place, repairs to original or better standard should be completed within 24hrs unless a longer repair period is authorised by Oxfordshire County Council Countryside team.

Reason: To protect the Public Rights of Way and to comply with Government guidance contained within the National Planning Policy Framework.

13. Any gates provided in association with the development shall be set back from the public right of way or shall not open outwards from the site across the public right of way.

Reason: To protect the Public Rights of Way and to comply with Government guidance contained within the National Planning Policy Framework.

Flood Risk and Drainage

14. Prior to commencement of development a scheme to provide compensatory floodplain storage for loss of floodplain storage for all floods up to and including the 1% climate change flood level, based on a level for level and volume for volume principles, shall be submitted to, and approved in writing by, the local planning authority.

Reason: To prevent environmental and amenity problems arising from flooding and to comply with Government guidance contained within the National Planning Policy Framework..

15. No development shall take place until a scheme for the provision and management of a 10 metre wide buffer zone alongside the watercourse has been submitted to, and approved in writing by, the local planning authority.

Thereafter, the development shall be carried out in accordance with the approved scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme. The buffer zone shall be free from built development including lighting, domestic gardens and formal landscaping. The scheme shall include:

- Plans showing the extent and layout of the buffer zone
- Details of proposed planting scheme (native species)
- Details demonstrating how the buffer zone will be protected during development
- Details of any proposed footpaths, fencing bridges, lighting, etc..

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with Government guidance contained within the National Planning Policy Framework.

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

- Flood Risk Assessment (reference: J-14174) dated May 2023.
- Drawing number 3002 Rev P06 – [Conceptual Surface Water Drainage Scheme]

- All relevant Hydraulic calculations produced via Microdrainage (File SWALE FOR AREAS 1) dated 19/10/2022
- All relevant Hydraulic calculations produced via Microdrainage (File SWALE FOR AREAS 2) dated 19/10/2022

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

17. 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.

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 16, 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 and trees

20. 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 measure (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.

21. 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.

22. 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.

23. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for birds, which shall include details of the location and design of alternative nest sites to be provided, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the commencement of the development, the

alternative nesting sites shall be provided in accordance with the approved document.

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.

24. Where an offence under Regulation 43 of the Habitats and Species Regulations 2017 ((or any regulation revoking or re-enacting or amending that regulation) is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on Great Crested Newts until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

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

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.

26. During the first planting season (mid-November to end of March) following the removal of the tree for which consent has been granted and to comply with section 206(1) of the Town and Country Planning Act 1990, the tree shall be replaced in accordance with [full details of a replacement tree] [siting/species/girth]. Thereafter and if, within a period of five years from being planted the replacement tree dies, is removed or becomes seriously damaged or diseased, it shall be replaced in the current/next planting season in accordance with the approved details and the wording of this condition.

Reason: In the interests of the visual amenities of the area and to comply with good arboricultural practice and Government guidance contained within the National Planning Policy Framework.

Planning Notes

1. The site has been subject to an archaeological evaluation, which recorded an area of Roman settlement including a trackway. Some of the pottery recovered dates from the late Iron Age / Early Roman period, though the majority dates from the 2nd-4th century AD. The remains could suggest a low status Roman settlement, which was deserted in the late 3rd or early 4th century AD. The trackway could be part of a postulated Roman Road recorded from cropmarks.

The evaluation also recorded Medieval remains representing field boundaries and furrows. The Roman remains will need to be investigated through a further phase of archaeological excavation, which can be secured via a condition, once the accepted evaluation report has been submitted.

2. **Correct route of public rights of way:** Note that it is the responsibility of the

developer to ensure that their application takes account of the legally recorded route and width of any public rights of way as recorded in the definitive map and statement. This may differ from the line walked on the ground and may mean there are more than one route with public access. The legal width of public rights of way may be much wider than the habitually walked or ridden width. The Definitive Map and Statement is available online at: www.oxfordshire.gov.uk/definitivemap.

3. **Protection from breaks in public rights of way and vehicle crossings/use of public rights of way:** Many public rights of way are valuable as access corridors and as continuous wildlife and landscape corridors. As a matter of principle, PRoW should remain unbroken and continuous to maintain this amenity and natural value. Crossing PRoW with roads or sharing PRoW with traffic significantly affects wildlife movements and the function of the PRoW as a traffic free and landscape corridor. Road crossings of PRoW should be considered only as an exception and in all cases provision must be made for wildlife access and landscape, and with safe high quality crossing facilities for walkers, cyclists and equestrians according to the legal status of the PRoW. Vehicle access should not be taken along PRoW without appropriate assessment and speed, noise, dust and proximity controls agreed in advance with OCC Countryside Access.
4. **Route alterations:** The development should be designed and implemented to fit in with the existing public rights of way network. No changes to the public rights of way's legally recorded direction or width must be made without first securing appropriate temporary or permanent diversions through separate legal process. Note there are legal mechanisms to change PRoW when it is essential to enable development to take place. But these mechanisms have their own process and timescales and should be initiated as early as possible – usually through the local planning authority. Any proposals for temporary closure/diversion need to have an accessible, level, safe and reasonably direct diversion route provided with necessary safety fencing and stand-off to ensure public amenity is maintained for the duration of the disturbance.
5. **Protection of public rights of way and users.** Routes must remain useable at all times during a development's construction lifecycle. This means temporary or permanent surfacing, fencing, structures, standoffs and signing need to be agreed with Oxfordshire County Council Countryside Access team and provided prior to the commencement of any construction and continued throughout. Access provision for walkers, cyclists and horse riders as vulnerable road users needs to be maintained. This means ensuring noise, dust vehicle etc.. impacts are prevented.
6. **Hedges/Landscaping.** Where hedges/natural vegetation is proposed to buffer/shield the public from glint or glare, or to coincide with new boundaries or to enhance existing boundaries, a lifetime management regime needs to be agreed with Oxfordshire County Council as Local Highway Authority to ensure that public access is not impeded when the vegetation screen is established or during the development's lifecycle. If the line of the Public Right of Way is to be enclosed by new and improved hedging or other vegetation then there should be a minimum of 10m useable width provided or the recorded width, whichever is greater. Fencing or hedging should not have barbs, thorns or prickles within the line of the Public Right of Way and visual amenity should be maintained.

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