

Application Number: WNS/2021/1939/MAF
Location: Land adjoining Cherwell Valley Business Park OX17 3AA
Proposal: A solar park with associated infrastructure including two substations, raised plinths and reinforced grasstrack.

Applicant: Cherwell Valley Silos A Cherry
Agent: Framptons
Case Officer: Samuel Dix

Ward: Middleton Cheney

Reason for Referral: Major development
Committee Date: 9th May 2022

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposed development comprises the erection of photo-voltaic panels (solar panels) and associated infrastructure on land to the immediate north of Cherwell Valley business park. The majority of energy generated by the development will be used by nearby businesses. In total the solar park will generate at its peak just over 3MW of energy.

Consultations

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

- Adderbury Parish Council (*NB. Adderbury Parish Council is located in Oxfordshire and as such were consulted as a neighbour, not as a statutory consultee*)

The following consultees have raised **no objections** or **commented** on the application:

- Kings Sutton Parish Council
- Environment Agency
- Environmental Health
- County Archaeologist
- Northants Police

No letters of objection have been received and no letters of support have been received.

Conclusion

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

The key issues arising from the application details are:

- Principle of development;
- Landscape and visual impact;
- Flood risk;
- Heritage;
- Ecology
- Highway safety;

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

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1 The application site is a relatively thin sliver of land located on the extreme south-western edge of Northamptonshire between the River Cherwell (the county boundary with Oxfordshire) to the west and the Oxford-to-Banbury railway to the east. It is presently grassland ostensibly in agricultural use although not intensively farmed due to flood risk from the adjoining river.
- 1.2 The site is located to the immediate north of the Cherwell Valley Business Park, which is a relatively large industrial estate that accommodates various commercial premises in a mix of uses. The Business Park is also located between the River Cherwell and the railway and is accessed from the south via Banbury Lane/Twyford Road, which runs between Kings Sutton in Northamptonshire to the east (around 1km away) and Twyford in Oxfordshire to the west (around 1.2km away).

2. CONSTRAINTS

- 2.1. The application site is within open countryside and is also affected by the following constraints:
- Flood Zones 2/3 (the highest probability of flooding)
 - Within 2km of 2no. Local Wildlife Sites (including adjoining the River Cherwell, which is a LWS)
 - Within 500m of the Oxford Canal, which is also a Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposed development comprises the erection of just over 7,000 solar panels that will be mounted on galvanised steel frames angled at 20 degrees. The panels will be around 2.4m tall at their tallest edge and the rows spaced by 5.5m. They will be accessed via a new track leading directly from the Business Park to the south with a substation located towards the central area of the site, from which an underground connection to the Business Park will be made, and a new overhead connection to existing Western Power grid infrastructure to the west (to be delivered under permitted development rights

afforded to the statutory undertaker). New planting will be incorporated to the north of the site.

4. RELEVANT PLANNING HISTORY

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

5. RELEVANT PLANNING POLICY AND GUIDANCE

Statutory Duty

5.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Development Plan

5.2. The Development Plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was formally adopted by the Joint Strategic Planning Committee on 15th December 2014 and which provides the strategic planning policy framework for the District to 2029, the adopted South Northamptonshire Local Plan (Part 2) and adopted Neighbourhood Plans. The relevant planning policies of the statutory Development Plan are set out below:

WEST NORTHAMPTONSHIRE JOINT CORE STRATEGY 2014 (JCS 2014)

- SA Presumption in Favour of Sustainable Development
- S1 Distribution of Development
- S10 Sustainable Development Principles
- S11 Low Carbon and Renewable Energy
- BN1 Green Infrastructure Connections
- BN3 Woodland Enhancement and Creation
- BN9 Planning for Pollution Control
- INF2 Contributions to Infrastructure Requirements
- R2 Rural Economy.

SOUTH NORTHAMPTONSHIRE PART 2 LOCAL PLAN (Part 2 LP)

- SS1 The Settlement Hierarchy
- SS2 General Development and Design Principles
- HE1 Significance of Heritage Assets
- NE4 Trees, Woodlands and Hedgerows
- NE5 Biodiversity and Geodiversity
- NE6 Sites of Special Scientific Interest and Protected Species

Material Considerations

5.3. Below is a list of the relevant Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Supplementary Planning Guidance, including Energy Efficiency (Part 1) and Low Carbon and Renewable Energy (Part 2) Supplementary Planning Document

adopted in July 2013. Part 2 of this SPD provides specific guidance on different types of renewable energy including Solar Farms.

6. RESPONSE TO CONSULTATION

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.

Consultee Name	Position	Comment
Kings Sutton Parish Council	No objection	
Adderbury Parish Council (<i>NB. Adderbury Parish Council is a neighbouring parish in adjoining Oxfordshire</i>)	Object	<p>Issues raised by the Parish Council may be summarised as:</p> <ul style="list-style-type: none"> • Construction traffic • Impacts of traffic on listed canal bridge • Construction management plan is required • Conditions are also required in respect of landscaping and biodiversity enhancements.
County Archaeologist	No objection	
Environmental Health	No objection	Request condition regarding soil disposal
Northants Police	Comment	Request further details regarding security arrangements
Environment Agency	No objection	Request conditions ensuring flood risk is properly mitigated.

The following were also consulted but have not made any comment on the application:

Northants & Beds Wildlife Trust, Network Rail, Warkworth Parish Council, Inland Waterways Association, Southern Gas Network, Lead Local Flood Authority, Cherwell District Council, Ecology, Oxfordshire Local Highway Authority.

7. RESPONSE TO PUBLICITY

Below is a summary of the third party and neighbour responses received at the time of writing this report.

7.1. There have been no objections/letters of support.

8. APPRAISAL

Principle of Development

Policy context

- 8.1. National Planning Policy on renewable energy projects is encapsulated in one paragraph of the NPPF. Paragraph 158 explains that applicants should not be expected to demonstrate an overall need for renewable energy and that applications should be approved if their impacts can be made acceptable (other than in the case of wind turbines). This builds upon paragraph 152 (which is itself the opening paragraph in Chapter 14 concerning climate change more generally) that explicitly states “*the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.*”
- 8.2. The NPPF is consistent in this respect with various other national and international policies and legislation concerning decarbonisation. For example, the 2008 Climate Change Act sought to reduce greenhouse gas emissions by 80% of 1990 levels by 2050. Secondary legislation has been passed where the government exceeded their target to bring the greenhouse gas emissions to net zero by 2050.
- 8.3. Locally, Spatial Objective 1 (Climate Change) of the West Northants Joint Core Strategy, encourages renewable energy production in appropriate locations. Policies SA, S10 and S11 set out a presumption in favour of sustainable development and principles for sustainable development to facilitate assessment of development proposals.
- 8.4. Policy S11 refers to Low Carbon and Renewable Energy, this inter alia requires that proposals should be sensitively located and designed to minimise adverse effects on people, the natural environment, biodiversity, historic assets, and mitigate pollution. It specifically requires wind energy proposals (although it is generally applicable to solar proposals too) to have no significant adverse impact on amenity, landscape character and access; and to provide for the removal of the energy generation infrastructure and re-instatement of the land when the generation operation ceases.
- 8.5. The Council’s adopted Supplementary Planning Document (SPD) (Part 2) on Low Carbon and Renewable Energy recognises that renewable energy, combined with energy efficiency, offers an opportunity to counter the effects of global warming. This general support for renewable energy is qualified in seeking to ensure that such development does not have a significant adverse effect on the natural environment, landscape character, cultural heritage and residential amenity. The SPD also advocates community consultation and ownership along with the necessary EIA processes being followed.
- 8.6. The South Northamptonshire Local Plan Part 2 contains no additional policies that are directly applicable to the principle of renewable energy projects, although it includes various policies on specific matters that are relevant to assessing the overall impacts of proposals. For example, Policy SS2(1h) requires development to not result in the loss of best and most versatile soils.

Assessment

- 8.7. It is evident from the above policy context that the acceptability in principle of solar farm development is wholly supportable as a means of reducing carbon emissions. Whether or not the proposal is acceptable in this particular location will instead rest upon a consideration of the detailed matters that are each assessed in below. The respective conclusions in each of these sections are that the development is or can be made acceptable and as such there is no policy basis for resisting the principle of development. The NPPF is clear that even small-scale renewable projects should benefit from a

presumption in favour and in this instance there is a specific benefit to the proposed development in that the majority of its output (some 59%) will be directed towards the needs of the business park to the south. This is given significant weight by Officers, particularly as the business park is not especially sustainable given its relatively isolated location, and therefore any opportunity to minimise its carbon footprint should be encouraged.

- 8.8. The application is not supported by a detailed agricultural land quality assessment although a review of the high-level Natural England classification maps indicates that the site is of poor soil quality. This is to be expected given it is located within a high risk of flooding. Therefore the proposed development is consistent with Policy SS2(1h) in that it would not result in the loss of best and most versatile agricultural land.
- 8.9. The operational aspects of how the development will connect into the national grid are not strictly speaking a material planning consideration. The applicant has, however, provided information demonstrating agreement with Western Power that there is capacity within nearby infrastructure to accept additional output from the development. The necessary cabling from the site to the substation would either be delivered as a statutory undertaking (i.e. under permitted development rights afforded to regulated bodies) or would be sought via a separate planning application if necessary. This matter therefore does not prevent the determination of the current proposal and does not weigh against its acceptability in principle.

Conclusion

- 8.10. Having regard to the national and local policy context, the principle of development is acceptable subject to satisfactory impacts on the detailed matters assessed below.

Landscape and visual impact

Policy context

- 8.11. In respect of visual impacts, the NPPF at paragraph 158(b) explains that in determining applications for renewable energy development Local Planning Authorities should approve applications if impacts are (or can be made) acceptable. The exception to this is for projects relating to wind energy, which does not apply here. Paragraph 174 concerns all developments and explains that decisions should recognise the intrinsic character and beauty of the countryside.
- 8.12. The Joint Core Strategy encourages renewable energy production in appropriate locations (Spatial Objective 1). Policies SA, S10 and S11 set out a presumption in favour of sustainable development with Policy S11 in particular referring to low carbon and renewable energy projects, requiring them to (inter alia) be sensitively located and designed to minimise adverse effects.
- 8.13. The South Northamptonshire Local Plan Part 2 does not include any specific policy on renewable energy projects but does include in Policy SS2 various criteria concerning visual impacts, most notably the first five criteria of the policy:
- a. maintains the individual identity of towns and villages and their distinct parts, does not result in physical coalescence that would harm this identity and does not result in the unacceptable loss of undeveloped land, open spaces and locally important views of particular significance to the form and character of a settlement; and*

b. uses a design-led approach to demonstrate compatibility and integration with its surroundings and the distinctive local character of the area in terms of type, scale, massing, siting, form, design, materials and details; and

c. is designed to provide an accessible, safe and inclusive environment which maximises opportunities to increase personal safety and security through preventative or mitigation measures; and

d. incorporates suitable landscape treatment as an integral part of the planning of the development; and

e. incorporates sensitive lighting schemes that respects the surrounding area and reduce harmful impacts on wildlife and neighbours.

- 8.14. It is also relevant to note that the application is not within a Special Landscape Area and Policy NE2 therefore does not apply. Policy EMP6 concerning farm diversification would, however, technically apply to the proposal although in respect of visual impacts largely reiterates the provisions of Policy SS2 above in terms of projects being of a character, scale and type that is compatible with the site's location and landscape setting.
- 8.15. Policy NE4 of the Part 2 Local Plan concerns trees and seeks (inter alia) to avoid the loss of high quality specimens, the integration of existing trees and hedgerows where possible, and replacement planting where necessary.

Assessment

- 8.16. The proposed development is located on an unobtrusive area of land that is effectively left over, being sandwiched between the River Cherwell to the west, the railway line to the east, and the Business Park to the south. It is almost entirely unappreciable from the surrounding area, with the nearest public right of way being the Oxford Canal towpath to the west, from which the site is separated by 250m of open field, the River Cherwell, another unnamed watercourse, and also intervening vegetation. There are no dwellings from which the site may be seen.
- 8.17. The Business Park to the south is not part of the public domain and, due to the size of the buildings it accommodates, already has a more significant impact on the character of the area than the proposed solar panels, which will be significantly lower in height. Theoretically the site will be visible from the adjoining railway although this is a fleeting and transient perspective, with the views of train passengers more greatly impacted by the Business Park and railway infrastructure. Therefore this is given no weight in determining the proposal's visual impacts.
- 8.18. The application is supported by a Landscape and Visual Impact Assessment (LVIA) that concludes the development will have a negligible impact on landscape character and a negligible/slight impact on visual amenity. Officers agree with these findings and therefore consider that the proposal complies with the relevant policies outlined above.

Conclusion

- 8.19. The proposed development will have an acceptable landscape and visual impact with no adverse effects that indicate permission should be refused on these grounds.

Flood risk

Policy context

- 8.20. Paragraph 167 of the NPPF states that in determining planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere. Applications of over 1Ha (i.e. major development) should be accompanied by a Flood Risk Assessment.
- 8.21. Policy BN7 of the Joint Core Strategy and Policy SS2(1l) of the Part 2 Local Plan requires development to provide satisfactory surface water drainage and incorporate mitigation identified through an assessment of flood risk and, where necessary, the sequential test and exception test.

Assessment

- 8.22. The proposed development lies within Flood Zones 2 and 3 (i.e. in areas at highest risk of flooding) due to the site lying immediately adjacent to the River Cherwell, which is a Main River overseen by the Environment Agency (EA).
- 8.23. The EA originally raised an objection to the application on the basis the submitted Flood Risk Assessment had not identified appropriate mitigation for locating the development within Flood Zones 2/3. This objection has subsequently been withdrawn following the submission of additional information that confirmed how the development will be protected during flood events. This includes setting the panels 1m above ground-level, raising substation infrastructure on plinths, and compensating for the loss of flood plain storage by widening an existing ditch across the site. Subject to these measures and conditions to ensure that boundary treatment on the site does not impede flows during flood events, the EA no longer raise an objection to the development.
- 8.24. The proposal nevertheless still needs to satisfy the sequential test and, if that is passed, also satisfy the exceptions test because renewable energy installations are classified as 'essential infrastructure' that requires an exceptions test when located in Flood Zone 3.
- 8.25. The sequential test requires the applicant to demonstrate that there are no suitable alternative sites for the proposed development in an area at a lower risk of flooding than the application site. In this respect it should be noted that the development is largely intended to serve the Business Park to its immediate south. Therefore Officers accept that the area of search for alternative sites is effectively restricted to the area immediately around and within the Business Park as the further the development is located from it, the more difficult it will be to establish a direct connection. Furthermore, almost the entire area between the Oxford Canal around 250m to the west and the railway line to the east is within Flood Zone 2/3. Therefore there will be no reasonable alternative site in a lower area of flood risk in this location, which leaves only land east of the railway 'available'. That land is understood not to be in the applicant's control and whilst ownership itself is not a criteria by which to discount sites, Officers also accept that it is unrealistic that a connection over or under the railway to the Business Park from a solar park to the east can be established. It is therefore concluded that the sequential test is passed given the particular intended nature of the proposed development in supporting the Business Park to the south.
- 8.26. In terms of the exceptions test, this has two parts. Firstly, it is necessary to demonstrate the development will have wider sustainability benefits that outweigh flood risk. Officers consider that this is quite clearly passed in this instance. The development will displace just under 750 tonnes of carbon per year of its lifetime, which is a direct sustainability benefit supported by a raft of local and national policies. Furthermore, the flood risk itself is confined solely to the site itself, which is privately owned and will not increase flood risk to third parties or the public domain. In this context it is even more evident that the wider benefits outweigh the flood risk as the former is a public benefit whilst the latter is only harmful to private interests (i.e. the land and the solar park equipment itself). The

second part of the exceptions test requires the development to be demonstrably safe for its lifetime and not increase flood risk. This element is also passed, as evidenced by the withdrawal of the objection by the Environment Agency due to the aforementioned mitigation measures that have been incorporated into the development.

Conclusion

- 8.27. Officers consider that both the sequential test and exception test are passed by the development and therefore the development is acceptable in flood risk terms, subject to the measures and conditions sought by the Environment Agency.

Heritage

Legislative and policy context

- 8.28. The site is within 250m of the Oxford Canal Conservation area, which is over the county boundary in Oxfordshire but the setting of which could feasibly extend into Northamptonshire. The application site will also potentially be accessed via the Grade II listed Kings Sutton bridge to the east, although there is no intervisibility between the site and the bridge with the Business Park lying between them.
- 8.29. 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.
- 8.30. 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.
- 8.31. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 199 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 BN5 of the JCS 2014 echoes this guidance.
- 8.32. Policies HE1, HE5 and HE6 of the Part 2 LP guide development affecting designated and non-designated heritage assets and their settings including conservation areas and listed buildings. Policy HE2 covers Scheduled Ancient Monuments and Archaeology, Policy HE3 Historic Parks and Gardens, and Policy HE7 Non-Designated Heritage Assets.

Assessment

- 8.33. In respect of both the Oxford Canal Conservation Area and Grade II listed bridge, the proposed development could theoretically be on the outer edge of their respective settings by virtue of proximity. However, in reality, the setting of neither asset will be affected by the development. In each instance the intervening distance and other features (such as the industrial buildings to the south, the River Cherwell, the other unnamed watercourse, and large open fields) eliminate any opportunity for the development to be perceived in the same context as the heritage assets.

- 8.34. The significance of the conservation area lies in its historic function and peaceful rural setting. The Conservation Area appraisal (October 2012) also refers to the 'intimate' relationship with the River Cherwell as being part of its character and significance. This is due to the length of the Conservation Area, which covers sections where the canal and river are much closer together. In the case of this application, the canal and river are some 250m apart and separated by another unnamed watercourse too. The development will be to the east beyond all of these and therefore will not affect the character or significance of the canal.
- 8.35. The significance of the bridge lies in its design and construction, being a rare complete example of cast/wrought iron bridges designed by Brunel. Its setting is limited to its immediate proximity and the development, being over 1km away beyond the Business Park will have no impact on it. In terms of traffic impact, this is assessed separately below but, in summary, the proposed construction and maintenance of the development is not considered to materially increase traffic over the bridge beyond its current use and certainly not to the extent that would affect its significance in heritage terms.
- 8.36. In terms of archaeology, the County archaeologist has reviewed the proposals and has no objection or requested conditions. Officers have no reason to disagree with this position.

Conclusion

- 8.37. The proposed development will not result in any harm to heritage assets and therefore complies with the relevant policies above.

Ecology

Legislative context

- 8.38. The Conservation of Habitats and Species Regulations 2017 provide for the designation and protection of 'European sites' and 'European protected species' (EPS). Under the Regulations, competent authorities such as the Council have a general duty to have regard to the EC Habitats Directive and Wild Birds Directive.
- 8.39. In terms of EPS, the Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in the Regulations, or pick, collect, cut, uproot, destroy, or trade in the plants listed therein. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of 3 strict legal derogation tests:
- a. Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - b. That there is no satisfactory alternative.
 - c. That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Policy Context

- 8.40. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and

enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity. Paragraph 175 states that planning authorities should refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for and should support development whose primary objective is to conserve or enhance biodiversity. Opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 8.41. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on 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 nature conservation.
- 8.42. National Planning Practice Guidance (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.
- 8.43. Policy NE3 of the Part 2 LP seeks to conserve and wherever possible enhance green infrastructure . Policy NE4 seeks to protect and integrate existing trees and hedgerows wherever possible and requires new planting schemes to use native or similar species and varieties to maximise benefits to the local landscape and wildlife. Policy NE5 requires that proposals aim to conserve and enhance biodiversity and geodiversity in order to provide measurable net gains. Development proposals will not be permitted where they would result in significant harm to biodiversity or geodiversity, including protected species and sites of international, national and local significance, ancient woodland, and species and habitats of principal importance identified in the United Kingdom Post-2010 Biodiversity Framework.
- 8.44. Policy BN2 of the JCS 2014 states that development that will maintain and enhance existing designations and assets or deliver a net gain in biodiversity will be supported. Development that has the potential to harm sites of ecological importance will be subject to an ecological assessment and required to demonstrate: 1) the methods used to conserve biodiversity in its design and construction and operation 2) how habitat conservation, enhancement and creation can be achieved through linking habitats 3) how designated sites, protected species and priority habitats will be safeguarded. In cases where it can be shown that there is no reasonable alternative to development that is likely to prejudice the integrity of an existing wildlife site or protected habitat appropriate mitigation measures including compensation will be expected in proportion to the asset that will be lost. Where mitigation or compensation cannot be agreed with the relevant authority development will not be permitted.

Assessment

- 8.45. 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. , The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is located in open countryside immediately adjacent to a Local Wildlife Site, and therefore has the potential to be suitable habitat for a variety of species.

- 8.46. In order to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 the LPA must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA 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.
- 8.47. 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.
- 8.48. The application is supported by a detailed protected species survey which concluded that the existing grassland on the site is of minimal nature conservation value whilst its value for invertebrates would not be affected due to the fact it will be retained between the rows of solar panels. The survey also records that the area alongside the river will not be developed and therefore will remain available for species associated with the adjoining wildlife site. The site is also not identified as being of value, even intermittently, for wetland birds. Inadvertent or unnecessary damage to habitats during construction could be further mitigated by way of a construction management plan and a net biodiversity gain achieved by way of new hedgerows and active management of the grassland between panels following development.

Conclusion

- 8.49. Officers are satisfied that subject to conditions, that the welfare of any EPS 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.
- 8.50. This conclusion is nevertheless awaiting verification from the Council's ecologist and therefore the recommendation is subject to confirm from them as to development's ecological impact and any conditions necessary.

Highway safety

Policy context

- 8.51. Paragraph 111 of the NPPF explains 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.
- 8.52. Policy SS2(1j) of the Part 2 Local Plan requires development to include a safe and suitable means of access for all people.

Assessment

- 8.53. The access to the application site will be via the existing Business Park, which has an industrial standard access off Banbury Lane on the inside of a bend with good visibility in either direction.
- 8.54. The applicant has provided information in respect of both the existing traffic using the Business Park access and the likely traffic associated with the solar park's construction. During operation the traffic generated by the development is just one maintenance visit per quarter in a smaller vehicle and therefore entirely insignificant in highways terms.

- 8.55. The evidence indicates that the access currently sees a total of 404 heavy vehicle movements a day and an additional 190 light vehicle movements a day, all associated with the existing commercial uses on the site.
- 8.56. By way of comparison, the total movements during the 12 week construction time of the development are expected to total around 84 heavy vehicle movements (NB. across the whole 12 weeks, not per day), with 15 light vehicle movements per day associated with construction staff.
- 8.57. This equates, on average, to a less than 0.5% daily increase in HGVs using the access and around 8% daily increase in light vehicles. Each of these increases would last for 12 weeks only and are in their own right are considered to be insignificant and certainly not representative of a 'severe' highways impact that would justify permission being withheld under the terms of paragraph 111 of the NPPF.
- 8.58. Some concerns have been raised by the neighbouring parish in respect of routing to/from the site. This is not considered to be a constraint to the development as the evidence indicates that the access is already used by large number of commercial vehicles whose routing is not restricted. Furthermore, given the very short time period of construction (12 weeks), the impacts of routing to/from the site are not considered to be a fundamental planning concern.

Conclusion

- 8.59. The proposed development is acceptable in highway safety terms.

9. FINANCIAL CONSIDERATIONS

- 9.1. The development is not liable for CIL as no residential or retail floorspace is proposed.
- 9.2. The Council's Low Carbon and Renewable Energy (Part 2) Supplementary Planning Document adopted in July 2013 advocates community gain from renewable energy projects, which could include contributions made under a s106 agreement. This has been largely superseded by amendments to the CIL regulations though, which only allow the Council to seek contributions where they are directly related to the development and necessary to make it acceptable in planning terms. Given the isolation of the proposed development and the fact it does not place direct or permanent pressure on local infrastructure or facilities, it is not considered that a contribution to community facilities or projects could be reasonably be sought under a s106 agreement.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Matters weighing in favour of the proposed development may be summarised as:

- The proposed development will displace around 750 tonnes of carbon per year by reducing reliance on fossil fuels, in line with local and national objectives. This is given significant positive weight.
- The proposed development is directly linked to improving the sustainability of the Cherwell Valley Business Park to the south, which by virtue of its age and location is not presently a particularly sustainable commercial area. This is given moderate positive weight.
- The proposal will provide biodiversity enhancements by way of new planting and active grassland management. Given the site could already been delivered for this purpose without the development though, this is given limited positive weight.

10.2. Matters weighing against the proposed development may be summarised as:

- The proposed development would be located in Flood Zones 2/3 and therefore is at the highest risk of flooding. This is nevertheless given limited negative weight as it is considered that in this instance both the sequential test and exception test are passed, and the Environment Agency have withdrawn an objection originally made to the application.

10.3. The development would also have a neutral impact (i.e. matters that weigh neither for nor against the proposal) in respect of heritage, highway safety, and visual impacts.

10.4. In conclusion, Officers consider that the planning balance lies in favour of granting planning permission as the above benefits outweigh the harms. The development is fundamentally consistent with the Development Plan with no material considerations that indicate a decision should be taken other than accordance with the Development Plan.

11. RECOMMENDATION / CONDITIONS AND REASONS

DELEGATE TO THE ASSISTANT DIRECTOR FOR GROWTH, CLIMATE AND REGENERATION TO GRANT PERMISSION SUBJECT TO:

1. NO OBJECTION BEING RAISED BY THE COUNCIL'S ECOLOGIST

2. SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

Time limit and approved plans

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are:

CCTV and Meteo Sensor Mast Details (drawing ref: CVS/P/08)

Boundary Fence & Gate Details (drawing ref: CVS/P/09)

Panel Mounting Frame Details (drawing ref: CVS/P/06 rev A)

Temporary Contractor's Compound Layout Plan (drawing ref: CVS/P/11)

Typical DC & AC Cable Trench Details (drawing ref: CVS/P/07)

All received by the Local Planning Authority on 11th October 2021

Site Location Plan (drawing ref: CVS/P/01 rev B)

Layout Plan (drawing ref: CVS/P/02 rev A)

Layout Plan (North Array)(drawing ref: CVS/P/03 rev A)
Layout Plan (South Array)(drawing ref: CVS/P/04 rev A)
North & South Array WPD & Site Substations (drawing ref: CVS/P/10 rev B)

All received by the Local Planning Authority on 2nd February 2022

Reason : To clarify the permission and for the avoidance of doubt.

Flood risk

3. The development shall be carried out in accordance with the submitted flood risk assessment (ref Solarsense UK Limited, CVS/P/D03 Revision A, January 2022) and any boundary treatment or fencing constructed within or around the site shall be designed to be permeable to flood water. The mitigation measures shall be fully implemented prior to the development being brought into operation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed in the flood risk assessment shall be retained and maintained thereafter throughout the lifetime of the development.

Reason : To prevent obstruction to the flow and storage of flood water, with a consequent increased risk of flooding.

Landscaping

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development, and shall be maintained for a period of ten years from the completion of the development. Any trees and/or shrubs which within a period of ten 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, unless the Local Planning Authority gives written consent for any variation.

Reason : To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policies SS2 of the South Northamptonshire Local Plan and Government guidance contained within the National Planning Policy Framework.

5. All species used in the planting proposals associated with the development shall be native species of UK provenance.

Reason : To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy and Government guidance contained within Section 15 of the National Planning Policy Framework.

Lighting

6. No external lights/floodlights shall be erected on the land without the prior express planning permission of the Local Planning Authority.

Reason : In order to safeguard the visual amenities of the area in accordance with Policy SS2 of the South Northamptonshire Local Plan and Government advice in The National Planning Policy Framework.