

Committee Report – 25.07.2024

Application Number: 1/1225/2023/FULM

Registration date: 21 December 2023

Expiry date: 21 March 2024

Applicant: Elgin Energy EsCo Ltd

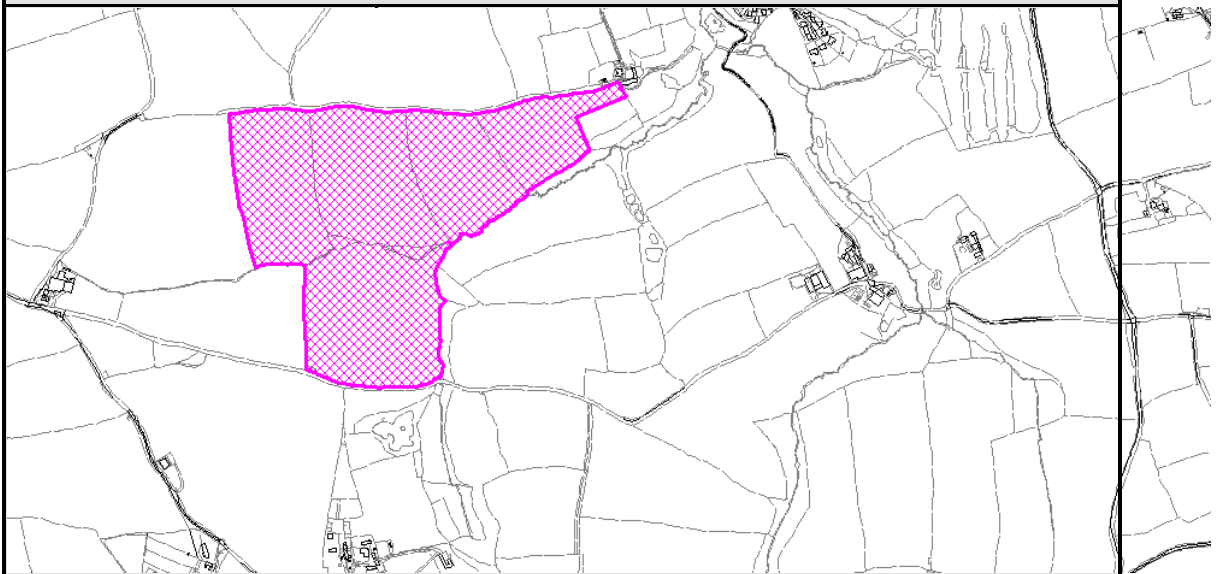
Agent: RPS Consulting Services

Case Officer: Mr Peter Stapley

Site Address: Land At Ebberley Down,
Ebberley,
Devon,
EX38 7JS,

Proposal: Construction and operation of a grid-connected solar photovoltaic farm, incorporating battery storage, with infrastructure, landscaping and biodiversity enhancements

Recommendation: Grant



Reason for referral:

The application has called-in by Cllr Lock, as Ward Member, to be heard at Plans Committee. No reasons were specified – none are required in the Council's Constitution.

Relevant History:

Application No.	Description	Status	Closed
1/0128/1993	ERECTION OF A POLY TUNNEL FOR HORTICULTURAL USE	PER	26.02.1993
1/1394/1995	PROPOSED POLYTUNNEL	PER	29.09.1995

Site Description & Proposal

Site Description

The application site is located approximately 1.17km to the southwest of the settlement boundary of High Bickington, which is designated as a 'Local Centre' and 1.7km to the northeast of Roborough, which is considered a 'Rural Settlement' in the adopted North Devon and Torridge Local Plan (NDTLP). The application site is divided into five parcels of greenfield land extending to approximately 30 hectares and is predominantly used for agricultural purposes. The existing site includes hedgerows around the existing agricultural fields with a small parcel of woodland, particularly in the central section of the site.

The site is located within the North Devon Biosphere Transition Area but does not fall within any other allocated land designation. Beaford Moor Site of Special Scientific Interest, is the closest protected designated landscape, located approximately 3.35km to the southwest of the application site and Upcott Wood County Wildlife Site is located approximately 1.9km to the east of the site.

The landscape character for the site falls within 'Lowland Moorland and Culm Grassland' (1F) and High Culm Ridge (32). In addition to this, the site falls solely within a Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is considered a low probability of flooding.

The closest protected heritage assets are located approximately 5 metres to the northeast of the site, known as Dadlands Farmhouse (List Entry: 1326594) and barn, horse engine house, stable, granary and cartshed to southeast of Dadlands Farmhouse (List Entry: 1105044), and are Grade II designated assets. The closest residential properties to the south of the site, are located approximately 333 metres in distance.

There are no public highways or public rights of way that extend through the site. The site is accessed from the public, classified (Class A), highway which forms the southern boundary of the site. There is an unnamed stream that transects the site through the centre and further runs along the southeast boundary of the northern fields.

Proposed Development

This application seeks the installation of a photovoltaic (PV) solar farm together with a battery energy storage system, ancillary infrastructure and associated works.

The proposed development seeks the addition of solar PV cells arranged in lines across the existing fields orientated to the south mounted on fixed metal frames to a maximum height of 3.2 metres, spaced at approximately 4.15 meters to minimise overshadowing effects. The solar panels will be arranged in arrays, with full bank and half banks, with either of the following:

- Full bank; typically comprising of 60 panels, made up of 2 rows and 30 columns, and;

- Half bank; typically comprising of 30 panels, made up of 2 rows and 15 columns

The proposed solar installation will have a generation capacity equating to approximately 27.76MW, with an anticipated project lifespan of 40 years.

In addition, the associated infrastructure would include the following:

- 5 inverters located across the site. The inverters measure approximately 2.5 metres in width by 12.2 metres in length, with a height of 3 metres. The inverters will be housed in pre-fabricated metal containers which are finished in a grey or green colour; situated within fenced hardcore-gravel base area.
- A 132KV sub-station and associated hardstanding located on the southern boundary of the site, measuring approximately 0.12 hectares (50 metres by 25 metres), a customer switch room; 15 metres communication tower, and 2.4 metres galvanised security fencing;
- An area allocated for Battery Storage, measuring approximately 0.24 hectares (58 metres by 42 metres), comprising of 24 storage units typically measuring 12.2 metres in length by 2.44 metres in width, with a height of 2.6 metres at 3 metres spacings;
- Perimeter fencing, known as '*Deer Fencing*' consisting of wooden fence poles and galvanised high tensile steel wire to a maximum height of 2.4 metres. There will be an appropriate buffer (typically 5 metres) between the deer fencing and hedge / tree boundary features. The fences are designed to have 'mammal gaps', these are small gaps of approximately 10 centimetres along the bottom to allow for the continued movement of small mammals across the site;
- CCTV cameras mounted on steel posts at points around the perimeter of the site extending to a maximum height of 4 metres;
- A proposed site access and internal access tracks across the site with an approximately width of 3.5 metres, consisting of permeable crushed stone or EVE TUFF track temporary road system; and
- Landscaping and Biodiversity enhancements.

Consultee representations:

High Bickington Parish Council:

No representation received.

Roborough Parish Council:

The proposal would constitute huge industrialisation of a greenfield site covering 74 acres over 5 arable fields and 24 industrial battery containers for 40 years on the boundary of Roborough Parish.

The scale of the proposal will, by its size, have significant adverse impact on the environment for the 40 years lifetime. It would reduce agricultural production and convert agricultural land into industrial land and could be harmful to the tourism industry. The proposed solar farm thus conflicts with NPPF2023 and with the North Devon and Torridge Local Plan 2011-2031 Policies ST01 and ST16. Section 15 of the NPPF-2023 is titled 'Conserving and enhancing the natural environment'. It states that " Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes.... b) recognising the intrinsic character and - Environmental beauty of the countryside....." The North Devon and Torridge Local Plan 2011-2031 conforms to the NPPF-2023. Policy ST02 (Mitigating Climate Change), states that development should conserve and enhance the natural environment whilst protecting and enhancing the landscape. Policy ST14 (Enhancing Environmental Assets) states that developments should conserve and enhance northern Devon's local 4 distinctiveness, including its tranquillity and should protect and enhance the local landscape character taking into account of its sensitivity to change. Policy ST16 (Delivering Renewable Energy and Heat) states that "renewable and low carbon energy development will be supported in the landscape character types where landscape sensitivity is best able to accommodate them, assessed in accordance with the Council's Landscape Sensitivity Assessments and by the landscape's sensitivity to accommodate the scale of development". Policy DM08A (Landscape and Seascape Character) states that development should be of an appropriate scale that recognises and respects undesignated landscape, considering cumulative impact. The proposal is thus counter to the North Devon and Torridge Local Plan 2011-2031 Policy DM08A

(Landscape and Seascape Character) which states "Development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes; it should avoid adverse landscape and seascape impacts and seek to enhance the landscape and seascape assets wherever possible. Development must take into account and respect the sensitivity and capacity of the landscape/seascape asset, considering cumulative impact and the objective to maintain dark skies and tranquillity in areas that are relatively undisturbed, using guidance from the Joint Landscape and Seascape Character Assessments for North Devon and Torridge". The proposed solar farm thus conflicts with the NPPF-2023 and the North Devon and Torridge Local Plan 2011-2031 Policies ST02, ST14, ST16 and DM08A.

The proposal would occupy acres of agricultural land, 60% is grade 3a land (Best and Most Versatile (BMV)) and the remainder being grade 3b (moderate). There is no exceptional reason the land should be used for the proposed industrial application. Agricultural land currently used for food production would be reclassified as industrial land.

Details of the battery energy storage system (BESS) are not stated but assumed that they will be Liion batteries. Concerns are raised that The Devon and Somerset Fire & Rescue have not been consulted as these batteries are hazardous and subject to thermal runaway leading to fire and release of toxic vapours. No provision of water for use in the event of a fire and no bunding has been provided to prevent water from escaping into the environment.

A Life-cycle assessment for carbon footprint should be provided in accordance with government policy requirements supported by the North Devon and Torridge Local Plan 2011 – 2031 Policies ST02 and ST16. All major components would be imported and other countries' environmental pollution impact, caused in the mining and refining, should be taken into account.

The Grade 11 listed barn is within 3 metres of the field boundary and within 5 metres of a Grade II listed farmhouse and associated barns, mentioned in the Doomsday Book of Devon. The residential receptor was not taken forward for detailed impact assessment by the applicants and therefore a residential visual amenity assessment (RVAA) was deemed not required. However, the listed building appears 150 metres from its true location in the application. The nearest marked solar array, predicted as 3 metres high and with a 3 metres security fence will be immediately next to the hedge of their property. The haybarn and former cattle yard attached to it, both within 5 metres of the solar park site, have been home to a resident barn owl and a number of bats continuously for many years. Ecology request evidence-based justification for lack of bat activity surveys and an assessment of potential impacts on foraging bats and/or surveys completed in accordance with best practice guidance should be provided. TDC were provided with a Bat survey on the Grade 11 listed barn on their application for conversion. The proposal would harmfully impact the important wildlife corridor stretching from High Bickington Community Woodland, through woods and coppices, towards Roborough and neighbouring villages.

Whilst the rating level of noise is considered to be a low impact at the majority of the neighbouring dwellings, there would be significant adverse impact, when assessed in accordance with BS4142, to Glenmoor Cottages, as a result of the BESS units serving the proposed development. Although mitigation in the form of a barrier has been proposed to reduce the level of noise, from 40dB to 37dB, the noise is likely to be perceptible in such a low background locality. In line with other solar developments, it is recommended a limit of noise level of 35dB at neighbouring third-party dwellings. Further mitigation is required to ensure compliance at Glenmoor Cottages. There is also insufficient information to demonstrate no net loss and net gain of biodiversity in accordance with the NPPF and Local Plan Policy DM08.

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Drainage for the proposed application does not satisfactorily conform to Policy ST03 of North Devon and Torridge Local Plan 2011 - 2031. The solar panels, BESS, and substations surface water management system should attenuate all of the surface water runoff generated up to, and including, the 1 in 100-year rainfall event, before discharging it off-site at rates and volumes equal to the site's

greenfield performance. The adjacent Grade 11 property is served by a bore-hole and is within 25 metres of the boundary and concerns are raised of contamination runoff from panels and proposed hard surfaces for the BESS.

Glint and Glare assessment did not take into account the resident located within 5 metres from the proposed development.

Historic Environment have raised an objection to the application given the potential for the site to contain unrecorded archaeological and artefactual deposits associated with the prehistoric or Romano-British activity in the surrounding landscape. This would be in accordance with the guidance Policy DM07 in the North Devon and Torridge Local Plan (2018). The adjacent property is Grade 11 listed and mentioned in the Domesday Book of Devon – one of only two such properties in the parish– and Dadlands' original ownership by Dodda, the Celtic lord who signed the Exmoor Charter granting commons rights across the Royal Hunting Forest in 1217. Flint arrowheads and mediaeval pottery sherds have been reported to small finds officer at the Royal Albert Museum in Exeter. The site is sufficiently important that any development as proposed requires a full archaeological survey.

Roborough Parish Council recommends refusal for this application.

DCC Archaeology:

First Representation (received: 10/01/2024)

I refer to the above application and your recent consultation. The proposed solar farm occupies a large area in a landscape where little formal archaeological investigation has been undertaken. However, there are several prehistoric sites recorded in the Historic Environment Record in the surrounding landscape and to the west of the application area lies a prehistoric or Romano-British ditched enclosure that has been identified through aerial photography. Given the potential for the site to contain unrecorded archaeological and artefactual deposits associated with the known prehistoric or Romano-British activity in the surrounding landscape I do not consider that the information submitted in support of this application as being sufficient to enable an understanding of the significance of any heritage assets within the application area or of the impact of the proposed development upon any such heritage assets. Paragraph 6.4 of the design and access statement states that following a pre-application consultation with the LPA a heritage and archaeology assessment were to be produced to support a future planning application. However, I am afraid that I cannot see that this information has been submitted in support of this planning application.

Given the unknown potential for survival and significance of any below ground archaeological deposits associated with the known prehistoric and Romano-British activity in the surrounding landscape and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. This would be in accordance with guidance Policy DM07 in the North Devon and Torridge Local Plan (2018) and paragraphs 194 and 195 of the National Planning Policy Framework (2023).

The additional information required to be provided by the applicant would be the results of:

- i. An archaeological geophysical survey and
- ii. A programme of intrusive archaeological field evaluation.

The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area to be understood as well as the potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by your Authority.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to nonhouseholder developers may incur a charge. For further information on the historic

environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Second Representation (received: 17/01/2024)

I refer to the above application and your recent re-consultation regarding the submission of the Heritage Statement prepared by RPS.

In the first instance I would advise that the Planning Authority's Conservation and Landscape Officers are consulted with regard to the impact upon any nearby designated heritage assets and the wider landscape and any comments they may have on the scheme.

With regard to any heritage assets with archaeological interest that at lie within the application area, in the absence of any archaeological field evaluation of the site (by geophysical survey and intrusive trial trenching) the Heritage Statement recognises that "the significance of any buried archaeological remains present within the proposal site cannot currently be determined." (paragraph 6.6 on page 19), as such, the Historic Environment Team has no additional comments to make to those already made, namely:

The proposed solar farm occupies a large area in a landscape where little formal archaeological investigation has been undertaken. However, there are several prehistoric sites recorded in the Historic Environment Record in the surrounding landscape and to the west of the application area lies a prehistoric or Romano British ditched enclosure that has been identified through aerial photography. Given the potential for the site to contain unrecorded archaeological and artefactual deposits associated with the known prehistoric or Romano-British activity in the surrounding landscape I do not consider that the information submitted in support of this application as being sufficient to enable an understanding of the significance of any heritage assets within the application area or of the impact of the proposed development upon any such heritage assets. Paragraph 6.4 of the design and access statement states that following a pre-application consultation with the LPA a heritage and archaeology assessment were to be produced to support a future planning application. However, I am afraid that I cannot see that this information has been submitted in support of this planning application.

Given the unknown potential for survival and significance of any below ground archaeological deposits associated with the known prehistoric and Romano-British activity in the surrounding landscape and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. This would be in accordance with guidance Policy DM07 in the North Devon and Torridge Local Plan (2018) and paragraphs 194 and 195 of the National Planning Policy Framework (2023).

The additional information required to be provided by the applicant would be the results of:

- i. An archaeological geophysical survey and
- ii. A programme of intrusive archaeological field evaluation.

The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area to be understood as well as the potential impact of the development upon them and enable an informed and reasonable planning decision to be made by your Authority.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to nonhouseholder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Third Representation (received: 04/03/2024)

I refer to the above application, your re-consultation and my recent online meeting with the applicant and their archaeological consultant.

As stated previously, the proposed solar farm lies in a landscape containing evidence of prehistoric and possible Romano-British settlement and while a geophysical survey has been undertaken of the site it is not possible by geophysical survey alone to determine the significance (as heritage assets) of any anomalies identified by the survey or indeed the efficacy of the survey in identifying below-ground archaeological deposits.

In the absence of the results of a programme of intrusive field evaluation the Historic Environment Team do not consider that the heritage information submitted to date is sufficient to enable an informed and reasonable planning decision to be made as required by national and local guidance on planning and the historic environment. I have previously communicated this to the applicant's archaeological consultant - copied in to this email - and have set out the below the justification for the need for sufficient heritage information to be submitted in support of this planning application.

Given the unknown potential for survival and significance of any below ground archaeological deposits associated with the known prehistoric and Romano-British activity in the surrounding landscape and the absence of sufficient archaeological information, the Historic Environment Team reiterates its objection to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend that your Authority refuse this planning application.

The requirement for any planning application to be supported by sufficient heritage information is set out in Policy DM07 in the North Devon and Torridge Local Plan (2018) and paragraphs 200 and 201 of the National Planning Policy Framework (2023).

Policy DM07 states that "All proposals affecting heritage assets should be accompanied by sufficient information, in the form of a Heritage Statement, to enable the impact of the proposal on the significance of the heritage asset and its setting to be properly assessed."

While paras 200 and 201 of the NPPF (2023) state:

"200. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate deskbased assessment and, where necessary, a field evaluation.

201. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal."

A programme of intrusive field evaluation would determine the presence and significance of any heritage assets with archaeological interest within the application area as well as allow an understanding of the impact of the development upon them – something that cannot be determined by a geophysical survey alone.

In the absence of a report setting out the results of a programme of intrusive field evaluation I do not consider that the proposals for development of the site as a solar farm are supported by sufficient heritage information – as required by local and national planning policy – and would reiterate the Historic Environment Team's previous advice that advise that a programme of intrusive field

evaluation is undertaken of all areas affected by the proposed development. These investigations should aim to sample at least 3% of the area affected with a 2% contingency for extra trenching if required to elucidate any archaeological deposits exposed.

Fourth Representation (received: 25/06/2024)

The archaeological field evaluation undertaken of the proposed solar photovoltaic farm has demonstrated that while a large proportion of the site has a low potential for containing significant heritage assets with archaeological interest the area in the north-west of the application area has been shown to contain evidence of Early Bronze Age activity in the form of a pit containing Trevisker Ware pottery - in Trench 94. Within the limited nature of the excavations for the field evaluation it is not possible to understand whether this pit is an isolated feature or is part of a group of pits. Any groundworks associated with the construction of the solar farm, such as foundation piling and cable routing have the potential to impact upon any other associated Bronze Age features that may be present in the vicinity of Trench 94. Nevertheless, given the nature of the pit found in trench 94 the Historic Environment Team do not consider that it or any associated features will be of such significance to preclude use of this area as part of the solar farm, and any impact could be mitigated by a programme of archaeological work.

For the above reasons I would like to withdraw the Historic Environment Team's previous objection and instead advise that any impact of the development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence in the vicinity of Trench 94 that may be affected by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 211 of the National Planning Policy Framework (2023), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason 'To ensure, in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 2 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.'

Reason 'To comply with Paragraph 211 of the NPPF (2023, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage the programme of archaeological work as taking the form of a limited open-area excavation of centred on the Bronze Age pit exposed in trench 94 to investigate any associated features and to ensure an appropriate record is made of these heritage assets prior to the construction of a solar farm. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

Devon County Council (Highways):

Observations:

I note the contents of the attached Construction Management Plan, as well as the accompanying Design & Access Statement. Although I acknowledge that there will be concerns regarding large vehicles using the local rural highway network, I also appreciate the measures that the applicant is taking within these documents to mitigate for the disruption. In which case, I include a condition below to secure this.

One addition I would add within the above noted condition is for a survey of the highway on the agreed route to be undertaken prior to commencement on site. This would require the applicant to 'make good' any damage caused to the public highway.

Beyond this, I am satisfied that the proposed development offers 'safe and suitable' access, as is the test of the National Planning Policy Framework (NPPF).

Recommendation:

The Director of Climate Change, Environment and Transport, on behalf of Devon County Council, as Local Highway Authority, recommends that the following conditions shall be incorporated in any grant of permission:

1. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

Reason: In the interest of public safety and to prevent damage to the highway.

2. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and

- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

Reason: To ensure the safety of all road users in the area.

Devon County Council - Flood Risk Management:

First Representation (received: 17/01/2024)

Recommendation:

At this stage, we object to this planning application because we believe it does not satisfactorily conform to Policy ST03 of North Devon and Torridge Local Plan 2011 - 2031. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observation:

The applicant has submitted Flood Risk Assessment and Sustainable Drainage Assessment (Report No. HLF85858, Rev.3, dated 30th Nov. 2023) to demonstrate surface water management for the site.

In order to determine the viability of infiltration on this site, the applicant must submit the results of infiltration testing, conducted in accordance with Section 3.28 of The Building Regulations (2010) (Drainage and Waste Disposal) (Part H). If this demonstrates that infiltration is viable, the applicant must submit details of a soakaway, designed to the site's measured infiltration rate, which will manage the surface water runoff from the site up to, and including, the 1 in 100 year (+ allowance for climate change) rainfall event.

If the above tests demonstrate that infiltration is not viable, the applicant will be required to submit details of an attenuation-based surface water drainage management system, with an off-site discharge point. This system must attenuate all of the surface water runoff generated up to, and including, the 1 in 100 year (+allowance for climate change) rainfall event, before discharging it off-site at rates and volumes equal to the site's greenfield performance. The applicant has proposed the climate change allowance is 30%. However, the applicant will be required to use the upper end climate change allowance value when sizing the proposed surface water drainage management system for this development.

Construction

Exceptional care will need to be taken during the construction of these sites because the ground surface is likely to be cultivated or severely disturbed by plant movement and left with exposed soil. As a result, there is great potential for soil erosion and the concentration of downslope flows in rills or gullies, as well as water quality issues for any downstream receiving watercourse or agricultural land.

Devon County Council's Flood and Coastal Risk Management Team therefore strongly recommends that no work is undertaken until a wide perimeter cross-contour vegetated swale is constructed around the downstream boundary of the site. It is essential that these swales are constructed to intercept flows and limit the aforementioned impacts to the nearby watercourses and surrounding agricultural land.

Ancillary Buildings

Any ancillary buildings on the site, such as inverter, BESS, PCS or substations, will likely contribute to the perturbed surface water runoff, and without sufficient control measures, will exacerbate the concentration of downslope flows and soil erosion.

As a means of controlling these impacts, filter strips should surround the concrete bases of the ancillary buildings to capture any runoff from the roofs, which should in turn be conveyed to the wide cross-contour perimeter swale around the downstream boundary of the site.

Access Tracks

The movement of plant across these sites is likely to further disturb the ground surface and contribute significantly to soil erosion and water quality issues downstream/downslope.

Any access tracks across the site should therefore be constructed with permeable materials which can be demonstrated to withstand the significant loadings of the machinery required for the construction of these sites. In order to manage any surface water exceedance from the permeable tracks, further swales should be incorporated to convey the water to the cross-contour perimeter swale at the downstream boundary of the site in order to maintain downstream/downslope water quality.

Vegetation

Concentrated runoff from the panels is likely to lead to erosion of the ground surface below, contributing significantly to water quality issues downstream/downslope.

Tussock grasses should dominate around and beneath the photovoltaic panels to limit soil erosion caused by runoff from the panels. Allowing the site to naturally colonise is likely to leave the soil surface significantly vulnerable to erosion, particularly during intense precipitation events. It is also imperative that these grasses are maintained regularly when the site is operational as the soil structure and the quality of the downstream watercourse or agricultural land will greatly depend on this.

It is strongly advisable that the reader consults Natural England's Technical Information Note (TIN101), 'Solar Parks: Maximising Environmental Benefits', for further information on the vegetation and soil quality issues associated with these developments. The above document can be accessed through the National Archives at the following address: <http://publications.naturalengland.org.uk/publication/32027>.

Ordinary Watercourses

Ordinary watercourses which run through the site may need to be crossed to enable ground works to take place.

If any temporary or permanent works take place within these watercourses (such as an access culvert or bridge), Land Drainage Consent will need to be obtained from Devon County Council's Flood and Coastal Risk Management team prior to any works commencing. Details of this procedure can be found at: <https://new.devon.gov.uk/floodriskmanagement/land-drainage-consent/>.

Second Representation (received: 04/06/2024)

Recommendation:

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) The applicant need to submit the detailed design for the development.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a).

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

Observation:

Following my previous consultation response (FRM/TO/1/1225/2023/FULM; dated 16th Jan. 2024), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has submitted the Conceptual Surface Water Drainage Strategy (Drawing No. HLEF85858/D01, Rev. A, dated 14th May 2024) to demonstrate the indicative swales location. However, the applicant should consider the intermediate swales during the detail design stage.

The applicant has confirmed the Type 3 aggregate will be used.

The development will apply 40 years.

Natural England:

Thank you for your consultation on the above dated 04 January 2024 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Summary of Natural England's Advice:

No Objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on any designated site and has no objection.

Natural England's further advice on designated sites, soils, and advice on other natural environment issues is set out below.

Designated Sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects or damage or destroy the designated features of any designated site and has no objection.

Further Advise

Soils and Agricultural Land Quality:

Under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) Natural England is a statutory consultee on development that would lead to the loss of over 20ha of 'best and most versatile' (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system, where this is not in accordance with an approved plan.

From the description of the development this application is likely to affect 17.5 ha of BMV agricultural land. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas.

However, during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large-scale solar farms on previously developed and non-agricultural land.

Paragraph 180 of the National Planning Policy Framework (NPPF) states that:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'

We would also draw to your attention to Footnote 62 of the NPPF that states:

Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

Should you have any questions about ALC or the reliability of information submitted with regard to BMV land please refer to Natural England's 'Guide to assessing Development proposals on Agricultural Land'. This document describes the ALC system including the definition of BMV land, existing ALC data sources and their relevance for site level assessment of land quality and the appropriate methodology for when detailed surveys are required.

Soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. It is recognised that a proportion of the agricultural land will experience temporary land loss. In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management and appropriate soil use, with consideration on how any adverse impacts on soils can be avoided or minimised.

Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources and agricultural land, including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former land quality (ALC grade).

General guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g. in relation to handling or trafficking on soils in wet weather.

The British Society of Soil Science has published the Guidance Note Benefitting from Soil Management in Development and Construction which sets out measures for the protection of soils within the planning system and the development of individual sites, which we also recommend is followed.

We would also advise your authority to apply conditions to secure appropriate agricultural land management and/or biodiversity enhancement during the lifetime of the development, and to require the site to be decommissioned and restored to its former condition when planning permission expires.

Protected Species

Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances. A protected species licence may be required in certain cases.

Local sites and priority habitats and species

The local planning authority should consider the impacts of the proposed development on any local wildlife or geodiversity site, in line with paragraphs 180, 181 and 185 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity to help nature's recovery. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local

records centre, wildlife trust, geoconservation groups or recording societies. Emerging Local Nature Recovery Strategies may also provide further useful information.

Priority habitats and species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. A list of priority habitats and species can be found on Gov.uk.

Natural England does not routinely hold species data. Such data should be collected when impacts on priority habitats or species are considered likely.

Biodiversity Net Gain

Whilst it is not Natural England's role to comment on metric calculations or to provide detailed advice on biodiversity net gain at the planning application stage, we do encourage the Local Planning Authority (LPA) to determine an application in accordance with BNG requirements, the National Planning Policy Framework (NPPF) and Local Plan policy.

The Government's Biodiversity Metric should be used to calculate biodiversity losses and gains for habitats and can be used to inform any development project.

We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government Planning Practice Guidance.

Environmental Protection Officer:

First Representation (received: 17/01/2024)

The following consultation response is provided by the Environmental Protection Team in relation to the above application.

Solar farms have the potential to result in an adverse amenity impact to neighbouring dwellings from the associated noise and reflected light. However, there appears to be no appropriate assessments provided that assess the impact on neighbouring amenity. Noise will emanate from the plant, such as transformers, sub-stations and inverters serving the solar array, which may be audible at considerable distances given the associated low frequency, especially in an area that is likely to be very quiet at times (ie. evening and night time period). Having regard for the size and scale of the proposed solar farm, the Environmental Protection Team will require an appropriate noise impact assessment, namely a BS4142 assessment, to be provided. Furthermore, a robust solar reflectivity assessment is required to assess any potential impact on surrounding dwellings and amenity from reflected light. A 'glint and glare' assessment would identify the potential solar reflectivity that neighbouring properties and those at distance would experience from the proposed development throughout the year. Where solar reflectivity may potentially adversely impact third party dwellings, mitigation measures should be recommended for implementation. Guidance such as the BRE Guidelines on Glare and Dazzle should be applied to assess any potential solar reflectivity.

In summary, the Environmental Protection Team is unable to support the application at this time in the absence of amenity impact assessments that confirm, or otherwise, the absence of amenity impacts arising from the proposed development, in particular noise and reflected light. The Environmental Protection Team will provide further comments upon receipt of the aforementioned assessments.

Second Representation (received: 17/01/2024)

Further to the previous consultation response dated 10 January, the Environmental Protection Team acknowledges the submission of a glint and glare assessment contained within the Landscape and Visual Impact Assessment.

The glint and glare assessment appears to have been conducted appropriately with regards the impact of reflected light on residential amenity. Although the assessment indicates no or low impact on the neighbouring dwellings identified, an objection is noted from a resident residing in close proximity to the eastern boundary of the proposed development. The resident states that their dwelling, reported as being located only 5 metres from the proposed development, is not included within the assessment. Subsequently, the applicant will need to review the glint and glare assessment to ensure all neighbouring dwellings have been included and assessed. In addition, further to the previous consultation response, no noise impact assessment has been submitted.

Given that information relating to impact assessments is currently incomplete, the Environmental Protection Team reiterates its previous comments in that it is unable to support the application at this time.

Third Representation (received: 23/02/2024)

Further to the previous consultations responses dated 10 and 17 January, the Environmental Protection Team notes the submission of a noise impact assessment. Having reviewed the assessment, the Environmental Protection Team is satisfied that it has been carried out in accordance with appropriate guidance and methodology.

The assessment reports low background levels in the locality which are considered to be representative. Whilst the rating level of noise is considered to be a low impact at the majority of the neighbouring dwellings, the assessment indicates a significant adverse impact, when assessed in accordance with BS4142, will arise at Glenmoor Cottages, located to the south of the application site, as a result of the BESS units serving the proposed development. Although mitigation in the form of a barrier has been proposed to reduce the level of noise, from 40dB to 37dB, at Glenmoor Cottages, the noise is likely to be perceptible in such a low background locality. The Environmental Protection Team acknowledges that mitigation measures have been proposed to reduce noise levels however, in line with other solar developments, recommends a limit of a rating level of noise of 35dB at neighbouring third party dwellings. Whilst this can be achieved at most neighbouring dwellings, further mitigation is required to ensure compliance at Glenmoor Cottages.

Fourth Representation (received: 27/03/2024)

Further to the previous consultation response dated 23 February, the Environmental Protection Team has reviewed the additional information in relation to noise mitigation. The proposed 4 metre barrier to mitigate noise emissions from the BESS unit appears to ensure noise is limited to a rating level of LAeq 35dB. Subsequently, the Environmental Protection Team is satisfied that sufficient measures have been proposed to ensure noise emissions from the proposed development do not adversely impact neighbouring residential properties. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the following condition:

The rating level of noise emitted from the plant and equipment serving the solar farm shall not exceed 35dB LAr,Tr, (as defined in BS 4142:2014+A1:2019) at any time when evaluated at the boundary of noise sensitive receptors. Noise levels shall be measured and rated in accordance with British Standard BS 4142:2014+A1:2019.

Reason: To protect the residential amenity of neighbouring properties.

Conservation Officer:

No observations.

Designing Out Crime:

Thank you for this application, I have no objections in principle from a designing out crime and anti-social behaviour perspective to the proposal.

Solar installations are by their very nature and location potentially vulnerable to criminal attack, for example increased cable theft, and therefore any appropriate means of preventing/detering this is supported.

I note that proposed fencing and gates for perimeter demarcation, it is recommended any permanent onsite buildings/units be further enclosed within a secure compound. I would advise that security fences incorporate a PID system. PID is a Perimeter Intrusion Detection System, it is series of fence mounted sensors, that monitors and detects any form of intrusion from the perimeter and then can provide a real time alert of this. Where appropriate and feasible, buildings should be protected by an intruder alarm, this is recommended to be monitored and compliant with current National Police Chiefs Council guidance. The buildings should also have robust external doors/windows. These are advised to meet an appropriate security standard such as LPS 1175 or equivalent.

It is recommended the proposed CCTV system designed in co-ordination with any external lighting and landscaping. A passport for compliance document, previously known as an Operational Requirement (OR), should be drawn up prior to installation to ensure any system will be fit for purpose. Consideration should also be given to incorporating a movement activated audio challenge system as part of the overall security strategy. I would suggest that the above brief guidance should also be applied to any compounds during the construction phase of any approved project.

The Environment Agency:

No representation received.

Representations:

Number of neighbours consulted:	2	Number of letters of support:	1
Number of representations received:	7	Number of neutral representations:	0
Number of objection letters:	5		

The Public and Non-Statutory Consultee Representations received, are summarised below:

Objection Comment:

Consultation:

- Inappropriate public consultation.
- Request of a public opinion survey.

Ecology:

- Impact on resident bat and barn owl population, adjacent to the site.
- Fencing restricting wildlife migration.
- Outdated retille report.
- Lack of full Ecological Impact Assessment.
- Lack of assessment, in relation to impact on trees.
- Lack of details, in relation to bird mitigation.
- Lack of Biodiversity Net Gain assessment.

Heritage:

- Lack of archaeology investigations.
- Impact on designated heritage asset (Grade II Dadlands Farm).

Highways:

- Impact on local highways.

Landscape:

- Loss of good quality agricultural land.
- Decommissioning of the solar farm.
- Significant adverse landscape impact.
- Potential impact arising from air and water pollution.

Other:

- Accuracy and inconsistency of documentation.
- Impact on property price.
- Request for the following conditions:

- i. The boundary of the development is moved westward to at least beyond the top of our paddock, 100m from our house and 50m from our hay barn as shown on the attached map.
 - ii. That properties negatively affected by the solar development should receive some benefit in the form of reduced price electricity.
 - iii. We are compensated for the planning blight on the value of our farmhouse and for additional council costs if we are unable to sell our farmhouse for a long period.
- Potential groundwater pollution from use of pesticides, herbicides and fertilisers.
 - Location of solar panels would be better suited to previously developed areas rather than countryside.
 - Impact on tourism to area.
 - Reduction in farm land.
 - Fire risk of Battery Storage.
 - Levels of toxic chemicals in the panels.
 - Speculative future development.
 - Proposal is not low carbon.
 - Importing materials from China.
 - Lack of recycling of solar panels

Supportive Comment:

Ecology

- Potential to improve biodiversity and soil quality.

Landscape:

- Productive use of poor-quality agricultural land.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST01 (Principles of Sustainable Development); ST02 (Mitigating Climate Change); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST10 (Transport Strategy); ST11 (Delivering Employment and Economic Development); ST14 (Enhancing Environmental Assets); ST15 (Conserving Heritage Assets); ST16 (Delivering Renewable Energy); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM03 (Construction and Environmental Management); DM04 (Design Principles); DM05 (Highways); DM07 (Historic Environment); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity).

Government Guidance:

NPPF (National Planning Policy Framework); NPPG (National Planning Practice Guidance); NERC (Natural Environment & Rural Communities); WACA (Wildlife & Countryside Act 1981).

Planning Considerations

The main planning considerations in the determination of this application are:

1. Principle of Development
2. Agricultural Land Classification
3. Impact on Landscape Character
 - a. Visual Impact Assessment
 - b. Cumulative Landscape Impact
 - c. Glint and Glare
 - d. Trees
4. Impact on Historic Character
5. Impact on Residential Amenity
6. Security and Public Safety
7. Access and Highway Safety
8. Construction Phase Provisions

9. Surface Water Drainage and Flood Risk
10. Impact on Wildlife and Ecology
 - a. Ecological Impact
 - b. Biodiversity Net Gain
11. Planning Balance and Conclusion

1. Principle of Development

Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law (namely Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

The NPPF sets out national policy and notes at paragraph 11 that for the consideration of planning applications there is a presumption in favour of sustainable development. For decision makers this means approving development proposals that accord with an up-to-date development plan without delay. Specifically in relation to meeting the challenge of climate change, the NPPF notes that 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. This includes supporting renewable and low carbon energy and associated infrastructure (paragraph 157). Further policy provision is made at paragraph 163 in relation to the determination of applications for renewable energy developments. This confirms that: Local Planning Authorities should:

- (a) 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 cutting greenhouse gas emissions; and
- (b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas’.

There are no specific areas for renewable energy developments identified in the North Devon and Torridge Local Plan (NDTLP).

The National Planning Practice Guidance (NPPG) makes recommendations for the consideration of large scale, ground mounted solar photovoltaic farms noting that Local Planning Authorities should encourage the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value.

The application site is a greenfield site and in active agricultural use, primarily as grazing land. Further consideration of the quality of the application site for agricultural purposes is set out in a subsequent section, however it should be noted that the rural nature of the District would limit the number of large scale previously developed sites within the surrounding area for consideration as an alternative site. Likewise, the majority of land within the surrounding area is either developed or in active agricultural or holiday/leisure use, compatible with the site countryside location, with few vacant brownfield sites for consideration as alternative sites for this type and scale of development.

At a local level, Policy ST01 of the NDTLP emphasises that development proposals will be considered with a presumption in favour of sustainable development, as contained in the NPPF.

The application site is located outside of the settlement boundaries of the *Local Centre* of High Bickington and the *Rural Settlement* of Roborough, as identified on the Proposals Maps to the North Devon and Torridge Local Plan. As a result, the provisions of section (4) of Policy ST07 of the NDTLP are relevant which states that in the countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location.

Policy ST16 relates specifically to renewable energy and notes that renewable and low carbon energy development (other than wind energy) will be supported in the landscape character types where:

- (a) Landscape sensitivity is best able to accommodate them, assessed in accordance with the Councils' Landscape Sensitivity Assessments and by the landscape's sensitivity to accommodate the scale of development;
- (b) There is no significant impact on local amenities; and
- (c) The special qualities of nationally important landscape, biodiversity and heritage designations and their settings are conserved or enhanced.'

Policy ST16(4) also notes that renewable energy development (other than wind energy) will be supported where it can demonstrate that the cumulative impact of operational, consented and proposed development on landscape character does not become a significant or defining characteristic of the wider fabric, character and quality of the landscape.

Taking into consideration the provisions of both National and Local Policy, a solar PV development would be supported in principle, subject to further detailed consideration in relation to each of the following material matters.

2. Agricultural Land Classification

Section 15 of the NPPF seeks to conserve and enhance the natural environment and notes that planning policies and decisions should contribute to and enhance the natural and local environment in a number of ways. These include recognising the intrinsic character and beauty of the countryside as well as the economic and other benefits of the best and most versatile agricultural land (paragraph 180(b)). The Glossary to the NPPF defines 'Best and Most Versatile agricultural land' (BMV) as: 'Land in grades 1, 2 and 3a of the Agricultural Land Classification'.

Guidance contained within the NPPG for solar farms sets out a number of factors which Local Planning Authorities should consider in the determination of an application for a large scale, ground-mounted solar photovoltaic farm. These 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'

However, the NPPF which has been updated on several occasions since 2015, makes no such requirement and only indicates where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality. In addition, whilst the *National Policy Statement for Renewable Energy (EN-3) (November 2023)*, seeks to avoid the use of BMV land where possible, it also indicates that land type should not be a pre-dominating factor in determining the suitability of the site location. Whilst this guidance relates largely to proposals that form part of the National Infrastructure regime, it still gives an indication of the government's most recent guidance on this issue.

The Agricultural Land Classification system was devised by the then Ministry of Agriculture, Fisheries and Food in 1988. This is determined agricultural land quality based on the climate, site characteristics (e.g. gradient, flood risk and micro relief) and soils (e.g. texture, structure, depth and chemical properties). The system classifies agricultural land into the following grades: Grade 1 = excellent quality agricultural land; Grade 2 = very good quality agricultural land; Grade 3 = good to moderate quality agricultural land – divided into sub-grade 3a (Good quality agricultural land) and sub-grade 3b (moderate quality agricultural land). Grade 4 = poor quality agricultural land and Grade 5 = very poor quality.

The Applicant has provided supporting information, within the Agricultural Land Classification report, received 12th December 2023. The report confirms that approximately 17.5 hectares (58%) of the combined 30 hectares consists of Subgrade 3a (good quality) and 11.7 hectares (39%) is graded as Subgrade 3b (moderate quality). The remaining 0.8 hectares (3%) remains non-agricultural (woodland).

The Natural England South West Agricultural Land Classification mapping system (dated 2011) allocates the land quality, solely, as 'poor quality' (Grade 4).

Natural England were consulted on the proposed development and had no objections in principle. However, commenting specifically on the Agricultural Land Classification Natural England stated *"From the description of the development this application is likely to affect 17.5 ha of BMV agricultural land. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas.*

However, during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large-scale solar farms on previously developed and non-agricultural land.

Paragraph 180 of the National Planning Policy Framework (NPPF) states that:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'

We would also draw to your attention to Footnote 62 of the NPPF that states:

Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

Should you have any questions about ALC or the reliability of information submitted with regard to BMV land please refer to Natural England's 'Guide to assessing Development proposals on Agricultural Land'. This document describes the ALC system including the definition of BMV land, existing ALC data sources and their relevance for site level assessment of land quality and the appropriate methodology for when detailed surveys are required.

Soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. It is recognised that a proportion of the agricultural land will experience temporary land loss. In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management and appropriate soil use, with consideration on how any adverse impacts on soils can be avoided or minimised.

Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources and agricultural land, including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former land quality (ALC grade).

General guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g. in relation to handling or trafficking on soils in wet weather.

The British Society of Soil Science has published the Guidance Note Benefitting from Soil Management in Development and Construction which sets out measures for the protection of soils within the planning system and the development of individual sites, which we also recommend is followed.

We would also advise your authority to apply conditions to secure appropriate agricultural land management and/or biodiversity enhancement during the lifetime of the development, and to require the site to be decommissioned and restored to its former condition when planning permission expires.”

In conclusion, despite the Natural England Southwest Agricultural Land Classification mapping system allocating the site a ‘*poor quality*’, the detailed assessment carried out by the Applicant demonstrates that the majority of the site will be located within ‘*good quality*’ agricultural land.

Whilst guidance contained within the NPPG seeks to direct large scale solar farms to previously developed or non-agricultural sites, this should be considered against the availability of such sites within the District and the level of soil disturbance resulting from the development as well as the ‘temporary’ nature of the proposed development against the context of the wider availability of BMV land. In this regard, your Officer does not consider the scheme will result in any significant employment impacts to the agricultural economy.

In conclusion, whilst the application site consists of 58% Grade 3a Agricultural Land (BMV) and 39% Grade 3b Agricultural Land (non-BMV), given the temporary nature of the development (40 years); the continual agricultural (sheep) grazing of the land in parallel with the Solar PV installation; the proposed Soil Management Plan to conserve soil materials during the construction and decommissioning phases; and the likely improvement to the wider non-BMV as a result of the Soil Management Plan and ecology objectives, it is considered that the proposed development would not result in a harmful loss of Best and Most Versatile Agricultural Land, in line with Natural England’s advice and relevant case law.

The proposed development is considered to be acceptable in this regard.

3. Impact on Landscape Character

a. Visual Impact Assessment

National policy contained within the NPPF notes that planning decisions should contribute to and enhance the natural and local environment including protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital (paragraph 180). Guidance in relation to renewable energy proposals set out in the NPPG notes the importance of considering of landscape character areas both at a national and local level. Further guidance within the NPPG notes that cumulative impacts require particular attention, particularly with respect to large scale solar farms and that local topography is an important factor in assessing whether large scale solar farms could have a damaging effect on landscape. The NPPG also notes that the potential impact of glint and glare should also be a consideration in relation to landscape impact along with the potential to mitigate landscape and visual impacts through, for example screening with native hedges.

Guidance in relation to assessing the landscape impacts of renewable energy proposals is set out in the NPPG and notes that these should consider both direct and indirect effects, cumulative impacts and temporary and permanent impacts. In order to assess the significance of impacts, a number of criteria should be considered including: the sensitivity of the landscape and visual resource, the magnitude or size of the predicted change and noting that some landscape character types may be more sensitive to certain types of change than others.

Policy ST16(a) of the NDTLP in relation to renewable energy proposals states that such development will be supported in landscape character types where: ‘landscape sensitivity is best able to accommodate them, assessed in accordance with the Councils’ Landscape Sensitivity Assessments and by the landscape’s sensitivity to accommodate the scale of development’.

Policy DM08A of the NDTLP makes clear that development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes. Further, the policy notes that adverse landscape and seascape impacts should be avoided wherever possible.

The site is located within Landscape Character Area 1F (Lowland Moorland and Culm Grassland) as set out in the Joint Landscape Character Assessment for North Devon and Torridge Districts (JLCA).

The special qualities of landscape type:

- Distinctive Culm grassland habitats and associated birdlife.
- Traditional management regimes (including grazing by North Devon Reds).
- Small field patterns enclosed by thick Devon banks and surrounded by open grazing land.
- Isolated farms and farmsteads.
- High levels of tranquillity and remoteness.

The JCLA identifies a number of forces for change which have previously or currently taking place within these landscape character areas. In addition future forces for change are detailed. The most relevant with relation to this development include:

Previous/Current:

- The installation of domestic-scale renewables such as building-mounted wind turbines.
- Installation of prominent pylon lines crossing through the landscape.

Future:

- Emerging demand for large-scale photovoltaic developments, capitalising on the solar radiation levels of slopes with a southerly aspect.
- Demand for domestic and community-scale renewable energy installations such as solar panels, small wind turbines and ground-source heat pumps
- The effects of climate change - including more intense drought conditions affecting the landscape's wetland habitats and Culm grasslands.
- Changes in crops and land use as a consequence of climate change and response to changing markets (e.g. for more UK-based food production and alternative crops such as Miscanthus).

The National Character Area profiles, produced by Natural England, provide a broad range of information including an outline of the key characteristics of a given area, description of the ecosystem services provided and how these relate to people, wildlife and the economy, and an array of opportunities for positive environmental change. This application site is within the NCA *The Culm* (149). The Landscape Visual Impact Assessment proceeds to detail the key characteristics of relevance to this site.

The site is also within the Devon Character Area, High Culm Ridges.

The Council has produced an Assessment of the Landscape Sensitivity to Onshore Wind Energy & Field-Scale Photovoltaic Development in Torridge District which assesses the landscape sensitivity of various parts of the District to different scale renewable energy projects. This identifies the sensitivity of the landscape character types to different sizes of solar PV developments. In this case, the landscape character type is likely to be highly sensitive to developments of this scale. The Landscape Strategy for Solar PV development outside the Area of Outstanding Natural Beauty is for *a landscape with occasional solar PV developments (size of development should relate to landscape scale which varies within the LCT, but the landscape is likely to be able to accommodate solar PV developments up to and including medium scale)*. *There may be the opportunity for several well-sited solar PV developments in the LCT, but they should be clearly separated so that, although each solar PV development influences the perception of the landscape at close proximity, collectively they do not have a defining influence on the overall experience of the landscape.*

A Landscape Visual Impact Assessment was by the agents, acting on behalf of the applicant, and submitted in support of the application. The assessment reviews the likely visual impacts arising from

the proposed development and argues that *“At the District Character Area scale, the low-level nature of the solar farm scheme would be set, within an elevated shallow valley landscape with wooded stream valleys and ridges and a framework of small to medium sized irregular field pattern often with low hedgerows but also hedgerow trees, small copses and tree belts. Some of the existing hedges would be managed to become taller, 3 to 4m and new hedgerow to reduce the visual impact and break up the visual extent of solar panels. The magnitude of the impact would be Negligible on this landscape character area judged by the TLSA to be of High sensitivity to solar farm greater than 15ha. The level of effect would therefore be Minor adverse in winter Year 1 reducing to Negligible adverse by summer year 10, both of which are not significant.”*

The assessment concludes that *“the value of the landscape at the local scale has been assessed in the baseline as Medium and the susceptibility to solar farm development has been assessed as Medium. Overall, the landscape sensitivity locally, is judged to be Medium. The magnitude of impact at the construction and operational phases would be Medium and a direct effect on the Application Site resulting in a Moderate adverse in winter Year 1, which is not significant, reducing to Moderate to Minor adverse, by summer Year 10, which would also not be significant.*

Overall, the local landscape has the capacity to absorb the proposed change, albeit time limited to the life of the solar farm, without significant harm.”

To assist in the determination of this application, the Local Planning Authority sought independent advice from a Chartered Member of the Landscape Institute. The advice received consisted of a review of the submitted LVIA, Landscape and Visual issues, and helps inform the remainder of this section.

The report concluded the following:

“The proposals are for a Solar PV development on 5 fields at Eberley Down, between High Bickington and Roborough. The scope and criteria set out in the methodology of the LVIA are appropriate to the development being assessed. The methodology has been clearly applied in the assessment of effects. There is a consistency of process throughout the assessment. Judgements are transparent and clear. Baseline studies and fieldwork have identified all relevant landscape and visual receptors. The full range of possible effects have been identified and the study area is appropriate to the scale and type of development.

Landscape on site and in the study area is assessed as being of medium value and of medium and medium to high sensitivity to the scale and type of development proposed. The LVIA assesses landscape sensitivity slightly higher than our own assessment. Landscape effects during construction are assessed as moderate and minor adverse by both our assessment and the LVIA. We are in agreement with the LVIA that effects on completion would be moderate adverse on site and minor adverse in the surrounding area. Our assessment is that the level of landscape effect would not reduce markedly with time and would remain Moderate adverse on site and minor adverse in the limited part of the study area over which the development would have an influence.

Our assessment is that there would be some beneficial effects from the proposals in contributing to landscape management guidelines asset out in the Torridge Landscape Character Assessment.

Visual receptors are assessed as being of high and medium sensitivity to changes in views. Our assessment of visual effects concurs with the LVIA in most instances. We differ in our assessment of residual visual effects once the site has become established. It is our judgement that in long views from the south and south east, the arrays in the northern fields will remain noticeable as an uncharacteristic alteration to the landscape. We predict moderate and moderate-minor adverse effects in the long term.

No significant effects are predicted as a result of the proposals. While we assess that some adverse effects will be greater than those predicted in the LVIA, we agree that there will be no long term adverse effects as a result of the development. Some affects would be uncharacteristic of the local area and would introduce new and uncharacteristic elements into some views. These effects would

be long term but would affect only a small geographical area and would not affect locally or nationally designated landscapes or views.”

Taking into consideration of the above, it is accepted that the scheme will cause a degree of landscape harm and therefore it must be accepted that there is some conflict with NDTLP Policies ST14, ST16 and DM08A. This harm must be weighed against the benefits of the scheme in the Planning Balance.

b. Cumulative Landscape Impact

Guidance contained within the NPPF states that Local Planning Authorities should not rule out otherwise acceptable renewable energy developments through inflexible rules on buffer zones or separation distances. Other than dealing with set-back distances for safety between renewable energy developments, distance in itself does not necessarily determine whether the impact of a proposal is unacceptable with other aspects such as local context, topography, local environment and nearby land uses being key considerations. The NPPG further notes that the approach to assessing the cumulative landscape and visual impact of large-scale solar farms is likely to be the same as that for wind turbines although notes that in the case of ground mounted solar panels with effective screening and appropriate land topography, the zone of visual influence could potentially be zero.

Policy ST16 of the NDTLP in relation to renewable energy development notes, at Section (4) that: *‘Renewable and low carbon energy development (other than wind energy) will be supported where it can demonstrate that the cumulative impact of operational, consented and proposed development on landscape character does not become a significant or defining characteristic of the wider fabric, character and quality of the landscape.’*

In general terms, a cumulative landscape impact results when more than one type of development is present or visible within a landscape. Landscapes have a finite ability to accommodate cumulative developments, beyond which further new development would result in severe landscape character changes. In relation to renewable energy proposals, this could result in the creation of a *‘solar farm landscape’* where solar farms have become the dominant characteristic, however all forms of renewable energy developments need to be comprehensively assessed. If not assessed thoroughly, the cumulative impact of a development with other developments in the vicinity can appear severe, particularly in tranquil rural locations.

The Landscape Visual Impact Assessment includes an assessment of the Cumulative Effect (Section 6), in which it identified the Renewable Schemes within a 5km radius of the site. The report concluded that the only other solar farm development within the 5km study area was the existing scheme at Upcott Barton, Beaford. The assessment concludes that *“both schemes will not be seen in combination or together at any of the representative viewpoints. This is due to the considerable separation distance and undulating landform multiple valleys between the solar schemes. There would therefore be no direct cumulative landscape effects as a result.”*

Notwithstanding the above, a comprehensive assessment of the cumulative landscape impact is required to take into account all existing renewable energy development, including wind turbines, and electricity infrastructure within the surrounding landscape.

The relevant established nearby renewable energy developments, within 5km from the site are set out below:

Location	Type of Development	Distance	Scale
Upcott Barton, Beaford	Solar PV	3.1km to the Southwest	Small-scale – 5 megawatts capacity
South Dodscott, St Giles in the Wood	Wind Turbine	4.6km to the West	Small-scale – height 34.2 metres
Yelland Farm, High Bickington	Wind Turbine	1.4km to the Northwest	Small-scale – 11Kilowatt

			capacity at 24.8 metres
Coombe Farm, Beaford	Wind Turbine	5km to the Southwest	Small-scale – 11kw capacity at 24.8 metres

Nonetheless, given the topography of the land; scale of existing renewable energy developments; and the sufficient distance between the developments, it is considered that there would be no wider cumulative landscape impact and the impact on the landscape from the proposed Solar PV development would be isolated.

Overall, the developments would not result in a significant cumulative impact on the landscape character type and would not become a dominant visual feature.

c. Glint and Glare

A Glint and Glare Assessment has been produced in support of the application, produced by Pager Power and was contained within the Landscape Visual Impact Assessment Report. The Glint and Glare Assessment provides an evaluation of the degree of impact from glint and glare which would result from the proposed development.

The conclusions of the Glint and Glare Assessment, in relation to each receptor is set out below:

Eaglescott Airfield

Solar reflections towards the 1-mile splayed approach paths for thresholds 07, 25 and 33 are not geometrically possible. Solar reflections of glare intensities 'potential for temporary after-image' are geometrically possible towards the right-hand base leg and associated base leg join sections of the visual circuits for threshold 25. The glare scenario is considered in an operational context (see Section 5.2.4) and considered operationally accommodatable. A low impact is predicted, and mitigation is not recommended.

Belle Vue Airfield

Solar reflections towards the approach paths and final sections of visual circuits for Belle Vue Airfield will occur outside a pilot's field-of-view (defined as 50 degrees either side of the approach bearing), or are expected to have glare intensities of 'low potential for temporary afterimage', and would therefore not be considered significant in accordance with the associated guidance (Appendix D) and industry best practice pertaining to approach paths.

Road Safety

All roads within 1km of the proposed development are local roads, where traffic densities are likely to be relatively low. Technical modelling is not recommended for local roads; therefore, a low impact is predicted for all road users when considering the worst-case, in accordance with the associated guidance.

Residential Amenity

Solar reflections are geometrically possible towards seven of the assessed 28 dwelling receptors. Screening in the form of existing vegetation, buildings and intervening terrain that significantly obstructs views of the reflecting panels has been identified for six dwellings, such that no solar reflections will be experienced in practice. No impact is predicted, and mitigation is not required. For the remaining one dwelling, existing vegetation and buildings is predicted to obstruct views of reflecting panels; however, marginal views are considered possible. There are mitigating factors that reduce the level of impact (see Section 5.3.2). A low impact is predicted, and mitigation is not recommended.

Zones of Theoretical Visibility and Sensitive Viewpoints

Solar reflections are geometrically possible towards six of the eight assessed viewpoint receptors. Screening in the form of existing vegetation and intervening terrain is predicted to obstruct views of

reflecting panels; however, views are considered possible. An overall low impact is predicted, and mitigation is not recommended.

Conclusion

The Council's Environmental Protection Officer was consulted on the proposed development and in relation to the likely impacts from the development in terms of glint and glare, commented "*the glint and glare assessment appears to have been conducted appropriately with regards the impact of reflected light on residential amenity. Although the assessment indicates no or low impact on the neighbouring dwellings identified, an objection is noted from a resident residing in close proximity to the eastern boundary of the proposed development. The resident states that their dwelling, reported as being located only 5 metres from the proposed development, is not included within the assessment. Subsequently, the applicant will need to review the glint and glare assessment to ensure all neighbouring dwellings have been included and assessed.*"

Figure 7 of the submitted Glint and Glare assessment, identifies the dwellings included within the assessment. Dwelling receptor number 28 would appear to be the dwelling outlined within the Environmental Protection Officers response. As such, the Case Officer is confident that all neighbouring dwellings have been included and assessed. In any case, the dwelling is located to the north of the Solar arrays and therefore would be unlikely to be impacted from any glint and glare from the face of the Solar PV panels, which are oriented south.

The proposed development is not considered to result in any potential issues relating to glint and glare and an appropriate condition is recommended to ensure any potential future complaints can be addressed.

d. Trees

An Arboricultural Impact Assessment (reference: JSL4918_770) was carried out by RPS and submitted for consideration, received 12th December 2023. The site consists generally of agricultural fields, however, there are hedgerows forming the boundaries of separate parcels of land and the site as a whole. Additionally, there are trees/groups of trees within the site, namely within the centre woodland parcel, and surrounding the site.

In total: 29 individual trees, 14 tree groups, 1 woodland, 23 hedgerow sections and 3 shrub groups were surveyed and recorded within the development site. Generally, the hedgerows were considered to be of a low quality and value. However, the majority of the individual trees; groups of trees and the woodland are assessed as being of high quality and value.

The proposed development requires the removal of small sections of hedgerow, H5 (approx. 6.5m in length) and H43 (approx. 3.75m in length), for the purpose of providing access into the site and passage of an internal access track. Similarly, where an internal access track requires passage between the internal fields, it would require the removal of a small section of the shrub masses S1 and S2.

The low quality and value of the hedgerows and the minor scale of removal required, it is considered that the loss of the ecological value would be mitigated sufficiently within the new tree planting and biodiversity management plan.

The report concludes that there should be sufficient canopy clearance to protective fencing and access routes, meaning that very little, to no, pruning will be required. However, the requirements of site-wide tree pruning works should be reassessed prior to the development being put into motion and in the event that any further tree works are required, these can follow the following guidance.

A condition will therefore be included on any planning permission requiring a finalised arboricultural method statement and tree protection plan, to ensure any damage to landscape features during the construction phase is prevented.

Subject to the suggested condition, and given the conclusions of the Arboricultural Impact Assessment, it is considered that sufficient arboricultural information has been provided to confirm

that the development can be undertaken without undue detriment to existing trees and hedgerows on the application site and appropriate tree and hedgerow protection measures can be incorporated into the development.

4. Impact on Historic Character

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 state 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 listed buildings or their setting or any features of special architectural or historic interest which they possess.

Paragraph 205 of the National Planning Policy Framework (NPPF) relates to the historic environment and notes 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). Paragraph 201 of the NPPF makes clear the local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset.

Paragraph 206 makes clear that any harm to, or loss of, the significance of a designated heritage asset, including from impact on its setting, should require clear and convincing justification. In particular, the substantial harm to or loss of assets of the highest significance (including grade II* buildings) should be wholly exceptional.

Paragraph 208 of the NPPF states that 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 ST15 of the NDTLP, states that 'great weight will be given to the desirability of preserving and enhancing northern Devon's historic environment by:

- (a) Conserving the historic dimension of the landscape;*
- (b) Conserving the cultural, built, historic and archaeological features of national and local importance and their setting, including those that are not formally designated;*
- (c) Identifying and protecting locally important buildings that contribute to the area's local character and identity; and*
- (d) Increasing opportunities for access, education and appreciation of all aspects of northern Devon's historic environment, for all sections of the community.*

Policy DM07 of the NDTLP requires that all proposals affecting heritage assets should be accompanied by sufficient information, in the form of a Heritage Statement, to enable the impact of the proposal on the significance of the heritage asset and its setting to be properly assessed. The policy also outlines that proposals that conserve and positively enhance the heritage asset and their setting will be support and where there is unavoidable harm to heritage assets and their settings, proposals will only be supported where the harm is minimised as far as possible.

The closest protected heritage assets are located approximately 5 metres to the northeast of the site, known as Dadlands Farmhouse (List Entry: 1326594) and barn, horse engine house, stable, granary and cartshed to southeast of Dadlands Farmhouse (List Entry: 1105044), which are both Grade II designated assets. The Council's Conservation Officer was consulted on the proposed development and had no observations.

Devon County Council Archaeology was consulted on the proposed development and provided the following comments:

"The archaeological field evaluation undertaken of the proposed solar photovoltaic farm has demonstrated that while a large proportion of the site has a low potential for containing significant heritage assets with archaeological interest the area in the north-west of the application area has been shown to contain evidence of Early Bronze Age activity in the form of a pit containing Trevisker

Ware pottery - in Trench 94. Within the limited nature of the excavations for the field evaluation it is not possible to understand whether this pit is an isolated feature or is part of a group of pits. Any groundworks associated with the construction of the solar farm, such as foundation piling and cable routing have the potential to impact upon any other associated Bronze Age features that may be present in the vicinity of Trench 94. Nevertheless, given the nature of the pit found in trench 94 the Historic Environment Team do not consider that it or any associated features will be of such significance to preclude use of this area as part of the solar farm, and any impact could be mitigated by a programme of archaeological work.

For the above reasons I would like to withdraw the Historic Environment Team's previous objection and instead advise that any impact of the development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence in the vicinity of Trench 94 that may be affected by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 211 of the National Planning Policy Framework (2023), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason 'To ensure, in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 2 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.'

Reason 'To comply with Paragraph 211 of the NPPF (2023, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage the programme of archaeological work as taking the form of a limited open-area excavation of centred on the Bronze Age pit exposed in trench 94 to investigate any associated features and to ensure an appropriate record is made of these heritage assets prior to the construction of a solar farm. The results of the fieldwork and any post-excavation analysis undertaken

would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.”

In light of the above, the Local Planning Authority must acknowledge the significance of the potential of the site for containing significant heritage (archaeological) assets.

The benefits associated with the production of renewable energy and the positive effects this has on the wider environment must be recognised. Climate change is a recognised matter of global significance where greenhouse gas emissions must be significantly reduced. In this regard, commitments were made in 2018 under amendments to the EU Renewable Energy Directive (2009) to reduce UK greenhouse gas emissions and generate 32% of total UK energy consumption by renewables by 2030. This binding target has been embedded within the Renewable Energy Directive (2018). The proposed Project is a ‘renewable energy’ solution, which would deliver a 27.76MW solar photovoltaic farm, and therefore a critical component of the Government’s commitment to become carbon neutral by 2050.

On a Local Level, the renewable energy development will contribute towards Torridge District Councils have declared a ‘Climate Emergency’ and are a signatory to the Devon Climate Emergency and are committed to a target of net zero carbon emissions from our operations by 2030, and for the districts by 2050.

Given the above, it is concluded that the public benefits associated with the proposed development far outweigh the low level of (less than substantial) harm assessed in respect of the landscape setting of any identified heritage assets. Given the level of investigation, it is understood that the full extent of harm is undetermined at this time and therefore the recommendation of a written scheme of investigation is required to be submitted prior to the commencement of the development, to ensure the protection of any heritage assets. The agent has agreed to the pre-commencement condition.

5. Impact on Residential Amenity

The NPPF notes that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. As noted above, Policy ST16(b) of the NDTLP seeks to support renewable energy developments where there is no significant impact on local amenities.

Policy DM01 of the NDTLP relates to amenity considerations and notes, development will be supported where:

- (a) It would not significantly harm the amenities of any neighbouring occupiers or uses; and*
- (b) The intended occupants of the proposed development would not be harmed as a result of the existing or allocated uses.*

Policy DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded. In addition to this, Policy DM02 of the NDTLP aims to ensure that developments do not cause an unacceptable risk to public health and safety due to hazards, pollution and/or air quality.

The proposed development seeks the installation of solar PV panels to a maximum height of 3.2 metres. The solar panels will be arranged in arrays, with full bank and half banks, with either of the following:

- Full bank; typically comprising of 60 panels, made up of 2 rows and 30 columns, and;
- Half bank; typically comprising of 30 panels, made up of 2 rows and 15 columns.

In addition, there is supporting infrastructure at various locations within the site, including a 132KV sub-station on the southern boundary of the site, measuring approximately 0.12 hectares and Battery Storage (BESS), measuring approximately 0.24 hectares comprising of 24 storage units.

The neighbouring residential properties within close proximity to the site are set out below:

- Dadlands, located to the northeast, approximately 130 metres from the closest proposed solar panels; 290 metres from the closest inverter; and 770 metres from the substation and battery storage units.
- Deptford, located to the east, approximately 625 metres from the closest proposed solar panels; 726 metres from the closest inverter; and 995 metres from the substation and battery storage units.
- Glenmoor Cottages, located to the south, approximately 350 metre from the closest proposed solar panels; 450 metres from the closest inverter; and 350 metres from the substation and battery storage units.
- Sugworthy Circuit, located to the southwest, approximately 490 metre from the closest proposed solar panels; 685 metres from the closest inverter; and 515 metres from the substation and battery storage units.
- Kol-Mar, located to the west, approximately 460 metre from the closest proposed solar panels; 590 metres from the closest inverter; and 710 metres from the substation and battery storage units.

A Noise Impact Assessment (NIA) has been submitted with this application, which has been reviewed by Council's Environmental Protection Officer. The assessment concluded that *"the initial context assessment identifies that noise from the proposed development would be low, and less than all recommended internal and external noise guideline sound level at all NSRs [Noise Sensitive Receptors]. Therefore, the proposed development is unlikely to cause any change on behaviour of residents. [...] Mitigation advice has been proposed in the form of a 3 m high noise barrier around the BESS."*

The Councils Environmental Protection Officer was consulted on the proposed development and commented *"The assessment reports low background levels in the locality which are considered to be representative. Whilst the rating level of noise is considered to be a low impact at the majority of the neighbouring dwellings, the assessment indicates a significant adverse impact, when assessed in accordance with BS4142, will arise at Glenmoor Cottages, located to the south of the application site, as a result of the BESS units serving the proposed development. Although mitigation in the form of a barrier has been proposed to reduce the level of noise, from 40dB to 37dB, at Glenmoor Cottages, the noise is likely to be perceptible in such a low background locality. The Environmental Protection Team acknowledges that mitigation measures have been proposed to reduce noise levels however, in line with other solar developments, recommends a limit of a rating level of noise of 35dB at neighbouring third party dwellings. Whilst this can be achieved at most neighbouring dwellings, further mitigation is required to ensure compliance at Glenmoor Cottages."*

A Construction Environmental Management Plan was not submitted for consideration at this stage. There is no evidence to suggest that the siting of Solar Panels would result in any contamination issues during the operational phase. A Construction Environmental Management Plan will be conditioned to limit any potential pollution issues during construction.

The following condition is recommended by the Environmental Protection Officer, and has been agreed by the application:

The rating level of noise emitted from the plant and equipment serving the solar farm shall not exceed 35 dB LAr,Tr, (as defined in BS 4142:2014+A1:2019) at any time when evaluated at the boundary of noise sensitive receptors. Noise levels shall be measured and rated in accordance with British Standard BS 4142:2014+A1:2019.

Reason: To protect the residential amenity of neighbouring properties

Given the relationship of neighbouring properties to the proposed development; the retained hedgebanks and proposed landscaping scheme; the scale and nature of the proposal; and the recommended conditions relating the Construction Management Plan, Noise restriction, and construction hours, it is considered that there would likely be limited adverse harm on the amenities of the neighbouring occupiers. Glint and Glare is considered earlier in this Agenda Report. Consequently, the proposed development is considered to be compliant with Policies DM01, DM02 and DM04 of the NDTLP and the NPPF.

6. Security and Public Safety

NDTLP Policy DM04 sets out design principles for development proposals and notes, at section (g) that development should provide public and private spaces that are well designed, safe, attractive and complement the built form, designed to minimise anti-social and criminal behaviour. In addition, Policy DM04 notes that the amenities of existing and future neighbouring occupiers should be safeguarded.

The submitted plans propose the inclusion of CCTV cameras facing into the site to be mounted on posts 4 metres in height. As detailed on the proposed layout plan, the cameras will be installed on posts around the perimeter fencing and will face into the site. The perimeter fencing, known as 'Deer Fencing' consisting of wooden fence poles and galvanised high tensile steel wire to a maximum height of 2.4 metres. There will be an appropriate buffer (typically 5m) between the deer fencing and hedge / tree boundary features. The fences are designed to have 'mammal gaps', these are small gaps of approximately 10 centimetres along the bottom to allow for the continued movement of small mammals across the site.

The Police Designing Out Crime Officer was consulted on the proposed development and had no objections but provided the following comments: *"Solar installations are by their very nature and location potentially vulnerable to criminal attack, for example increased cable theft, and therefore any appropriate means of preventing/deterring this is supported.*

I note that proposed fencing and gates for perimeter demarcation, it is recommended any permanent onsite buildings/units be further enclosed within a secure compound. I would advise that security fences incorporate a PID system. PID is a Perimeter Intrusion Detection System, it is series of fence mounted sensors, that monitors and detects any form of intrusion from the perimeter and then can provide a real time alert of this. Where appropriate and feasible, buildings should be protected by an intruder alarm, this is recommended to be monitored and compliant with current National Police Chiefs Council guidance. The buildings should also have robust external doors/windows. These are advised to meet an appropriate security standard such as LPS 1175 or equivalent.

It is recommended the proposed CCTV system designed in co-ordination with any external lighting and landscaping. A passport for compliance document, previously known as an Operational Requirement (OR), should be drawn up prior to installation to ensure any system will be fit for purpose. Consideration should also be given to incorporating a movement activated audio challenge system as part of the overall security strategy. I would suggest that the above brief guidance should also be applied to any compounds during the construction phase of any approved project."

The proposed security details are considered to be acceptable for the nature and location of the proposed development. Policy DM04 of the NDTLP is satisfied.

Concerns were raised with regards to Fire Safety, resulting from the proposed battery storage units. The applicant has confirmed that the proposed development would comply with the National Fire Chiefs Council – Grid Scale Battery Energy Storage System planning – Guidance for FPS. However, no detailed safety management plan has been provided for comment at this stage. Consequently, a condition requiring the submission of a full detailed safety management plan is submitted prior to the commencement of any development.

7. Access and Highway Safety

Paragraph 115 of the NPPF advises that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 116 notes that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, respond to local character and design standards.

Policy ST10 of the NDTLP, sets out the transport strategy for Northern Devon. It aims to reduce the environmental and social impact of transport by ensuring that access to new developments is safe and appropriate.

Policy DM05 of the NDTLP relates to highways and states:

- (1) All development must ensure the safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians.*
- (2) All development shall protect and enhance public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.*

It is generally accepted that Solar Farms when operational do not give rise to significant traffic movements. The Construction Traffic Management Plan sets out the likely vehicle generation of the proposed development. The report states that *"the number of construction HGV movements per day will vary as the construction works progress and will be dependent upon the activities being undertaken at the site; however, it is estimated that there will be an average of 24 two-way HGV movements (all arrivals plus all departures) per day, with 18 total HGV movements associated with the Solar Farm and 6 total HGV movements associated with the BESS.*

The number of construction staff at the site will fluctuate over the construction phase depending upon the activity that is taking place. It is estimated that there will be up to a maximum of 60 staff on site per day, with 50 staff associated with construction of the Solar Farm and 10 staff associated with construction of the BESS. Should staff drive to the site, then they will be encouraged to car share and therefore, it is estimated that there will typically be 30 cars on site per day.

Once operational, the Solar Farm and BESS will be monitored remotely and will not require any permanent staff to be located at the site; therefore, only occasional visits made by cars / LGVs will be required for maintenance and cleaning purposes of around once per fortnight in frequency.

The decommissioning of the Proposed Development will be expected to generate a similar or fewer number of vehicle trips as the construction phase, since there will not be the same requirement to transport the material separately. The traffic associated with the decommissioning phase will be discussed with TDC prior to commencement, with appropriate measures being agreed as necessary at that time."

Devon County Council, as the Highways Authority, were consulted on the proposed development and commented *"I note the contents of the attached Construction Management Plan, as well as the accompanying Design & Access Statement. Although I acknowledge that there will be concerns regarding large vehicles using the local rural highway network, I also appreciate the measures that the applicant is taking within these documents to mitigate for the disruption. In which case, I include a condition below to secure this.*

One addition I would add within the above noted condition is for a survey of the highway on the agreed route to be undertaken prior to commencement on site. This would require the applicant to 'make good' any damage caused to the public highway.

Beyond this, I am satisfied that the proposed development offers 'safe and suitable' access, as is the test of the National Planning Policy Framework (NPPF)."

The highway network within the wider area, surrounding the application site are typical country lanes with no lighting or footways. Whilst not being suitable for carrying continual large volumes of traffic they do, nevertheless serve the existing agricultural, tourist and recreational businesses in the area, as well as the scatter of rural dwellings.

A condition is required which relates to the provision of a Construction Management Plan (CMP), the applicant has agreed to this pre-commencement condition. A further condition requiring a decommissioning management plan will be required to ensure there are no highways concerns during the decommissioning phase.

There are no existing Public Right of Ways or cycle routes which route across or adjacent to the site according to Devon County Council's interactive Rights of Way map.

Taking into account the above, whilst the local rural highways would not normally support such continual heavy flows of traffic, particularly large vehicles, the proposed harm is predominantly restricted to the construction and decommissioning phase. The proposed mitigation is considered appropriate and sufficient to reduce the overall impact on the highways, as confirmed by the Local Highway Authority. Consequently, the proposed development is considered to be acceptable with regards to highways, and the impact is not considered 'severe'. The proposed development is compliant with Policy ST10, DM05 and DM06 of the NDTLP and the NPPF.

8. Construction Phase Provisions

Policy DM03 of the NDTLP states that all development that will generate a significant volume of construction and operational waste will be required to demonstrate through a waste audit statement how the waste will be minimised, and residual waste will be reused or recycled on site or segregated for reuse and recovery elsewhere.

Policy DM02 of the NDTLP relates to environmental protection noting that development proposals will be supported where they do not result in unacceptable impacts to atmospheric pollution, pollution or surface or ground water, noise and vibration and light pollution.

A Waste Audit Statement was submitted for consideration, which details the potential waste during the construction process. This is considered to be acceptable due to the inclusion of recycling and the appropriate management of topsoil where relevant. Due to the nature of the scheme, the proposal is not considered likely to produce significant volumes of operational waste.

As outlined previously within this report (Section 5), an hours of operation condition and a noise level limitation condition of 35dB at neighbouring third-party dwellings will be implemented, which will control the noise generation arising from the proposed development.

Whilst a Construction Management Plan has not been submitted for consideration at this stage, a pre-commencement condition has been agreed with the applicant ensuring that the necessary details of the construction phase provisions are secured, prior to development. These details would include, but not limited to, mitigation of dust in the event of dry conditions; practices minimising risk of pollution incidents; and highway considerations, such as wheel washing facilities.

Moreover, a condition requiring details of the decommissioning and restoration of the site has been agreed with the applicant.

Taking into account the above, the proposed development, subject to conditions relating to construction management, decommissioning, hours of operation, and compliance with the waste audit statement, is considered to be acceptable regarding the construction phase provision.

9. Surface Water Drainage and Flood Risk

Policy ST03 of the NDTLP notes that development should 'adopt effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and the use of rainwater'.

Policy DM02 of the NDTLP relates to pollution and at Section (2) states that development will be supported where it does not result in unacceptable impacts to:

'(b) pollution of surface or ground water (fresh and salt) including rivers, canals, other watercourses, water bodies, wetlands, water gathering grounds including catchment areas, aquifers, groundwater protection areas, harbours, estuaries or the sea'

In addition, part (n) of Policy DM04 notes that development proposals should provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.

The site falls solely within a Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is considered a low probability of flooding. However, there is an unnamed stream that transects the site through the centre and further runs along the southeast boundary of the northern fields.

Devon County Council were consulted on this application in their role as Lead Local Flood Authority (LLFA). The LLFA had no objections to the proposed development and provided the following observations “*Following my previous consultation response (FRM/TO/1/1225/2023/FULM; dated 16th Jan. 2024), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.*”

The applicant has submitted the Conceptual Surface Water Drainage Strategy (Drawing No. HLEF85858/D01, Rev. A, dated 14th May 2024) to demonstrate the indicative swales location. However, the applicant should consider the intermediate swales during the detail design stage.

The applicant has confirmed the Type 3 aggregate will be used. The development will apply 40 years.”

The LLFA recommended that “*No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:*

- (b) The applicant need to submit the detailed design for the development. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a).*

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.”

Subject to the recommended pre-commencement condition requiring further submission of detailed design. The proposal in accordance with the above condition is acceptable and unlikely to result in any risk to flooding.

10. Wildlife and Ecology

a. Ecological Impact

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). This is further reinforced within NDTLP through Policies DM08 and ST14 which state that all developments must ensure that the importance of habitats and designated sites are taken into account.

The local planning authority also has a duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 to have regard to biodiversity in exercising its functions. This duty includes the requirement to have regard to protected species.

Development proposals should avoid adverse impacts on existing features as a first principle and enable net gains by designing biodiversity features and enhancements and opportunities for geological conservation alongside new developments, however where adverse impacts are unavoidable they must be adequately and proportionately mitigated.

In support of the application the following reports were provided for consideration, in relation to Ecological Impact, Assessment and Mitigation.

- Reptile Report, carried out by Colmer Ecology, received 12th December 2023;
- Breeding Bird Report, carried out by Colmer Ecology, received 12th December 2023;

- Preliminary Ecology Appraisal Report, carried out by RPS Group, received 21st December 2023;
- Wildlife Trigger List, carried out by RPS Group, received 21st December 2023;
- Biodiversity Net Gain Metric, carried out by RPS Group, received 11th March 2024;
- Biodiversity Metric Conditions Assessment Sheets, carried out by RPS Group, received 11th March 2024;
- Distribution of Breeding Bird Plan, produced by Colmer Ecology, received 11th March 2024;
- Badger Set Plan, produced by RPS Group, received 11th March 2024;
- Transect Route Plan, produced by Colmer Ecology, received 11th March 2024;
- Distribution of Breeding Bird Plan, produced by Colmer Ecology, received 11th March 2024;
- Ecology Addendum Statement, produced by RPS Group, received 11th March 2024;
- Ecological Impact Appraisal Addendum, produced by RPS Group, received 12th June 2024.

The report concluded the following, with respect to each protected species and habitats:

Habitats:

- Broad Woodlands - No direct habitat loss. Potential indirect impact to dormice, reptiles, bats, and birds from disturbance or unintentional damage
- Improved grasslands – Direct habitat loss as a result of proposed scheme. Potential indirect impact to reptiles and birds through habitat loss, potential for injury/disturbance during construction activities.
- Species poor semi-improved grassland – Direct habitat loss as a result of the proposed scheme. Potential indirect impacts to reptiles and birds through habitat loss, potential for injury/disturbance during construction activities
- Watercourses - No direct impacts, stream to remain unchanged. Potential indirect impacts during construction resulting from poorly managed site spillage/contamination events. Potential impact to reptiles and amphibians associated with stream areas affected on adjacent terrestrial habitats.
- Species-rich hedgerows – Minor impacts related to widening existing gateway for access from road and some vegetation removal for erection of security fencing. Potential impacts to bats, birds, and dormice, if present.
- Species-rich hedgerows with trees – Minor impacts associated with small amounts of vegetation removal for erection of security fencing. Potential impacts to bats, birds, and dormice, if present.
- Species-poor defunct hedgerows – Not applicable.

Flora:

The desk study reported no plants of specific conservation interest in the area, and the grassland fields within the revised proposed development boundary were of limited ecological value due to the relatively low diversity of common plant species and intensive management.

The hedgerows on site are assessed as important on a to be retained during the development, and so the proposed works will not affect hedgerows.

Reptiles:

The proposed development has the potential to kill/injure individual reptiles during construction works, and while some areas of habitat may need to be cleared to facilitate development, this is limited along the northern boundary of the site to erection of panel arrays and security fencing. Therefore, suitable mitigation for habitat loss, and an initial clearance strategy for such work is provided in Section 5 to ensure reptiles are protected.

There will be some temporary habitat disruption for reptiles during the construction period, although the habitats and conditions that occur during operation are likely to provide an increase in suitable habitats and conditions for reptiles on the site as a result of improved species diversity in grassland margin planting and reduced grazing pressure providing more opportunities for foraging and basking by reptiles.

Bats:

The desk study highlighted multiple bat species recorded within 2km of the site, including important species such as western barbastelle and lesser horseshoe bat. No sites that have been designated for bats were recorded during the desk study and the proposed site does not fall within the Devonshire consultation zones for greater horseshoe bat sustenance or connectivity. Therefore, the site is not considered to be of significant value to any known, nationally important population or group of bats, and the site is considered to be important for bats at the (6.) District Level.

Results of the Phase 1 habitat survey reported mature trees on site that could provide features of potential value to roosting bats, and the network of hedgerows and woodland edge are of potential value to commuting and foraging bats. None of these features are to be significantly affected by the proposals. The woodland and hedgerows are to be retained during the development.

Breeding Birds:

With 20 breeding species confirmed within the wider survey area and 11 within the proposed development site, based on the level of diversity set out by the Fuller Criteria, the 'Species Richness' of the Site was considered to be of less than Local Importance.

The assemblage of birds was considered typical of those utilising woodland edge, dense scrub and open, improved, semi-improved neutral and poor semi-improved grassland habitats and arable habitats. Breeding birds concentrated at boundary habitats, such as field edges, hedgerows, trees, and woodland edges. Skylark were the only breeding bird recorded within the central fields, but these were not recorded within the boundaries of the revised proposed scheme.

Impacts on birds from the proposed development would primarily relate to potential disturbance during the breeding season, particularly from construction activities. Protection of hedgerows and woodland areas will be necessary and any works involving potential disturbance of hedges or woodland should be undertaken outside of the normal bird nesting season (nominally March-September), or be subject to detailed inspection by a suitably experienced ecologist.

Dormice:

No dormice have been recorded using the site, although without survey data, their presence cannot be completely discounted. No dormice were identified within 2km of the proposed site in the desk-study.

If dormice were present at the site, they would be considered to be of District Level importance.

The habitats on site that would be of value to Dormice, such as hedgerows and woodland, will be protected and not significantly disturbed (other than insertion of fence lines, which will require minor localised clearance only) during the development, and providing that hedges and woodland areas are protected and provided with suitable buffers, any disturbance to dormice, if present, would be avoided.

Badgers:

The location of the setts have been taken into account by the scheme design, which has ensured that no works will be necessary within 30m of any sett entrances. This complies with generally accepted parameters for avoiding impacts requiring licensing to badger setts and any badgers occupying them.

Badger sett buffer zones will need to be subject to exclusion areas during construction period to ensure that they are not inadvertently damaged or disturbed during construction sufficiently below the woodland edge areas to avoid any risk of damage by construction of the proposed development, but there is some risk that they would be subject to disturbance during the construction activity.

As badgers frequently excavate and inhabit setts in differing locations within their territories, it is possible that new setts may be excavated in other locations which could be damaged by construction activities. It will be necessary to undertake further survey work prior to commencement of construction activity to ensure that no setts are present in locations which would require closure under licence to allow the works to continue.

To assist in the determination of this application, the Local Planning Authority sought independent advice from an independent Ecologist. The advice received consisted of a review of the submitted Ecological assessments, and helps inform the remainder of this section.

There was no objection in principle to the proposed development, in relation to ecological impact and enhancements. A number of further documents and details were initially requested to clarify that the development would meet UK Wildlife Law and National and Local Planning Policies.

Natural England have been consulted on the application and advised the Local Planning Authority that the development will not have significant adverse impacts on any statutory protected nature conservation sites or landscapes.

Taking account the external professional advice received and the additional information in combination with the initial Ecological reports, it is the opinion of the Local Planning Authority, that the proposed development meets the statutory UK Law and National and Local Planning Policies, subject to the necessary conditions relating to necessary mitigation, enhancements and protections; as well as the further submission of a Construction Environmental Management Plan (CEMP); an Ecology and Habitat Management Plan; and a Detailed Monitoring Plan.

b. Biodiversity Net Gain

As of the 12th February 2024, it is mandatory under the Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) that developments (unless exempt) must deliver a Biodiversity Net Gain of 10%.

The Planning Authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Torridge District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. For the avoidance of doubt, the Permission which has been granted is for development, which is exempt from the requirements set out within Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 [Biodiversity Net Gain] being that the application for planning permission is a 'major' and was made before 12th of February 2024.

Notwithstanding the above, NDTLP Policy DM08 requires new development to enable net gains by designing in biodiversity features. The application is supported by a Biodiversity Net Gain Metric and assessment. The Metric demonstrates substantial enhancements to biodiversity on site, with an approximately 78% increase in habitat creation units, 40% in hedgerow units and 14% in watercourse units.

In review of the biodiversity net gain proposals, the external ecologist commented "*Defra Biodiversity Net Gain metric spreadsheet and condition sheets to be submitted, along with sufficient evidence to demonstrate that at least a 10% gain in units is achievable. Further to previous comments, a BNG metric calculator and condition sheets have been provided. Version 4.0 has been submitted; the statutory metric should be used as this is now available. The information is welcomed and it has been demonstrated that an overall net gain of at least 10% (and likely more) is feasible. The target condition of neutral grassland is modest and should be achievable (in 'poor' or 'moderate' condition). It is unclear whether a river condition assessment has been completed by personnel trained in the methodology as required within BNG approaches. However, as the watercourse will be retained and an existing crossing used unchanged, and as livestock will be prevented from accessing the watercourse, it is clear that there will be an enhancement of riparian habitat. The new hedgerow creation is not obvious on landscaping plans, but there will be an overall gain in hedgerow units*

regardless. Full and final details can be secured via a pre-commencement condition for a Biodiversity Gain Plan and associated Habitat Management and Monitoring Plan.”

A pre-commencement condition requiring the submission of a detailed Biodiversity Net-Gain Plan is recommended.

11. Planning Balance and Conclusion

Whilst it is generally accepted that the proposed development would not result in any significant landscape harm and would not impact locally or nationally designated landscapes or views, the introduction of renewable energy development in this area would result in new and uncharacteristic elements into some wider landscape views, albeit these impacts are considered to result in a moderate adverse impact on site and minor adverse in the surrounding area, and therefore only impacting a small geographical area. In the opinion of your Officer, moderate weight should be given to these conflicts, bearing in mind that overall, there are not anticipated to be any 'significant adverse landscape or visual impacts' when considered as a whole.

The application site lies within an area of archaeological interest and the proposed development could give rise to harm to the heritage assets, if not appropriately mitigated. Devon County Council Historic Environment recommended a full Written Scheme of Investigation is submitted, and approved, by the Local Planning Authority prior to the commencement of any development on site. A condition has been included to this effect. In addition to the above, the application site is located within close proximity to an off-site heritage asset. However, given the layout and design of the proposed development the harm would be limited.

In the opinion of the planning officer, whilst considerable weight and importance should be taken to the desirability of preserving heritage assets, given the very limited harm to the known (and any unknown) heritage assets, minimal weight should be afforded to this consideration. It is also considered that the proposal would accord with various policies of the NDTLP and the NPPF.

Whilst it is recognised that the application site consists of Best and Most Versatile Land (58%), the proposed development is time limited for a period of 40 years, and therefore it cannot be considered to result in a 'significant' loss of agricultural nor indeed a loss at all, as the intention is to continue to utilise the land for agricultural purposes (sheep grazing). The removal of the renewable energy development is secured by a condition. Moreover, the soil has the potential to be improved at the end of the solar farm use. In the opinion of your Officer, the proposal would not result in the loss of BMVAL and should be afforded a neutral weight.

Other considerations are considered to give rise to a neutral impact as they can be adequately mitigated, for example, highway impact and safety; residential amenity; flood risk and drainage; and security.

Turning to the benefits of the proposed development. The provision of renewable energy, albeit limited to 27.76 MW, and the associated potential to reduce carbon emissions, should be afforded very substantial weight in favour of the proposal as a public benefit. This includes the benefits of addressing the negative impacts of climate change and addressing UK energy security. This aligns with both local and national strategy and policies of moving Britain and the Torridge area to low carbon energy generation, equivalent to approximately 8,500 homes a year. The provision of renewable energy also accords with Torridge District Council's Carbon, Environment and Biodiversity Plan.

The provision of significant biodiversity net gains as a result of the proposed development, would significantly improve the ecological value at a local level, providing improved habitats and foraging opportunities. In the opinion of your Officer, this public benefit should be attributed moderate weight.

The economic benefits of the proposal relate to construction jobs during the erection of the solar panels and associated infrastructure such as the deer fencing and planting of hedgerows. During its operational life, it is likely to directly employ a small number of people. It would also provide business rates and support a number of indirect jobs over its lifetime. It would also create energy equivalent to

8,500+ homes, which could be used to power homes or indeed community facilities. In the opinion of the case officer, this is afforded moderate weight in favour of the proposal.

In conclusion, the development, on balance, is considered acceptable and the benefits (including public) of the development are considered to demonstrably outweigh the identified harm meaning that planning permission should be granted.

Regard has been had to the comments submitted by third parties, including the CPRE, and statutory consultees.

Human rights

Consideration has been given to the Human Rights Act 1998.

Conclusion

It is therefore considered that subject to the compliance with the attached conditions and taking into account all other material planning considerations, including the development plan the proposal would be acceptable.

Recommendation

GRANT, subject to the following conditions:

- 1 The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the time requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.

- 3 The permission hereby granted shall expire 40 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. 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 protect the visual amenity and character of the surrounding countryside.

- 4 Not later than 12 months before the expiry of the permission hereby granted, a decommissioning and site restoration scheme shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented within 12 months of the expiry of the permission hereby granted.

Reason: In order to protect the visual amenity and character of the surrounding countryside.

- 5 Within 12 months of the development hereby permitted ceasing to be used for the generation and storage of energy of electricity, it shall be permanently removed from the land and the site restored in accordance with the approved details as set out within Condition 4 of this permission.

Reason: In order to protect the visual amenity and character of the surrounding countryside.

- 6 No development shall commence until such time as a soil management plan which provides measures to improve soil quality and ensure that there will be no loss of soil quality within the operational lifetime of the site, has been submitted to, and approved in writing by, the Local Planning Authority. The soil management plan shall be implemented as approved throughout the life of the development.

Reason: To ensure the proposed development does not impact the agricultural land quality.

- 7 No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy DM07 of the North Devon and Torridge Local Plan 2011 - 2031 and paragraph 2 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.

Pre-commencement Reason: This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

- 8 The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To comply with Paragraph 211 of the NPPF (2023, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.

- 9 No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
(a) The applicant shall submit the detailed drainage design for the development.

No power shall be exported from the site until the works have been approved and implemented in accordance with the agreed details under (a).

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

Pre-commencement Reason: The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

- 10 The rating level of noise emitted from the plant and equipment serving the solar farm shall not exceed 35dB L_{Ar,Tr}, (as defined in BS 4142:2014+A1:2019) at any time when evaluated at the boundary of noise sensitive receptors. Noise levels shall be measured and rated in accordance with British Standard BS 4142:2014+A1:2019.

Reason: To protect the residential amenity of neighbouring properties.

- 11 Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

Reason: In the interest of public safety and to prevent damage to the highway.

- 12 Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
- (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturdays only with no such vehicular movements permitted on Sundays and Bank Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

Reason: To ensure the safety of all road users in the area.

Pre-commencement Reason: The conditions should be pre-commencement since it is essential that the construction operations are detailed to ensure highway safety.

- 13 Prior to commencement of any development hereby granted planning permission, a detailed battery safety management plan, shall be submitted to and approved in writing by the Local Planning Authority. The safety management plan shall accord with the recommendations contained within National Fire Chiefs Council - Grid Scale Battery Energy Storage System planning - Guidance for FPS.

Reason: In the interest of public safety and risk of hazardous pollution incidents.

Pre-commencement Reason: A detailed safety management plan is required to be submitted prior to commencement, to ensure the appropriate measures and safeguards are implemented in the final design and layout.

- 14 All electrical cabling between the solar panel rows and the on-site connection buildings shall be located underground. Thereafter the excavated ground shall be reinstated to its former condition.

Reason: To limit the visual impact arising from the scheme.

- 15 Construction works and associated deliveries shall not take place other than between 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturdays only with no works permitted on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring properties.

- 16 Within 28 days from the receipt of a written request from the local planning authority confirming that problems of glint are occurring (following a complaint to the local planning authority from the occupant of a dwelling which lawfully existed or had planning permission at the date of this consent), the solar array operator shall submit a scheme of measures to prevent further glint, for the approval of the Local Planning Authority. Within 48 days (or other timescale agreed with the LPA) of obtaining approval for the scheme, the solar array operator shall fully implement the scheme.

Reason: To protect the amenities of neighbouring properties.

- 17 Prior to the commencement of any development hereby granted planning permission and before any equipment, machinery or materials are brought onto the site for the purposes of the development hereby granted planning permission, a finalised Tree Protection Plan and Arboricultural Method Statement Shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as approved and the fencing shall be erected prior to the commencement of any of the development hereby permitted and shall be maintained until the development has been completed and all equipment, machinery and surplus materials have been removed from the site (or phase thereof).

Reason: To protect the trees and ecology, to be retained on this site from damage before and during the course of development.

Pre-commencement reason: To ensure that the appropriate protection measures are implemented prior to machinery being brought onto site, in order to prevent any damage to the trees onsite.

- 18 Prior to the commencement of development, an Ecological Management Plan: Biodiversity Net Gain (EMP: BNG) shall be submitted to, and be approved in writing by, the Local planning Authority. The content of the LEMP shall include the following:
- (a) Biodiversity Net Gain Plan
 - (b) Description and evaluation of features to be managed.
 - (c) Ecological trends and constraints on site that might influence management.
 - (d) Aims and objectives of management.
 - (e) Appropriate management options for achieving aims and objectives.
 - (f) Prescriptions for management actions.
 - (g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - (h) Details of the body or organisation responsible for implementation and phasing of the plan.
 - (i) Ongoing monitoring and remedial measures.

The EMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the EMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To limit any the impact of the construction works and protect ecology in accordance with ST14 and DM08 of the NDTLP.

Pre-commencement Reason: To ensure the scheme delivers the necessary Biodiversity Net Gain provisions and secure the relevant funding mechanisms for delivery.

- 19 No development shall commence until a detailed Landscape Scheme and Landscape Management Plan has been submitted to and approved in writing by the Local Planning Authority which provides details of the following:
- (a) Demonstrates how the Landscape Scheme follows the principles contained within the Illustrative Landscape Masterplan (drawing reference: 100/Figure 9 Rev B, received: 12th December 2023)
 - (b) Details of soft landscaping to include the plant type, size, planting numbers and distances, and a programme detailing the timing of the landscaping works in relation to the phasing of construction together with express confirmation that any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with plants of the same size and species.
 - (c) Details of a long term landscape management plan which includes details for the watering of the new hedgerow plants and trees which will be managed and maintained at a minimum height of 3m when established and confirmation of the maintenance regime to ensure that all the identified landscaping on the site is continually managed for the lifetime of the development; to the objective of ensuring that the visual impact of the development is minimised from both close range views and those available from the wider surrounding landscape. Once approved the watering and maintenance of the landscaping scheme shall be carried out in accordance with the approved details.

Development shall only commence in strict accordance with the Landscape Scheme and Landscape Management Scheme, which shall subsequently be implemented only in accordance with the approved details for the lifetime of the use hereby approved.

Reason: To ensure the aims of the biodiversity mitigation and enhancement is achieved.

- 20 Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP). The CEMP shall focus on any environmental factors/risks not covered by condition 11 which relates to construction management, and should include details such as but not limited to;
- (a) Control of emissions
 - (b) Management of potential pollution
 - (c) Materials storage, including any hazardous material storage and removal.
 - (d) Any lighting required during construction
 - (e) Risk assessment of potentially damaging construction activities.
 - (f) Identification of "biodiversity protection zones".
 - (g) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - (h) The location and timing of sensitive works to avoid harm to biodiversity features.
 - (i) The times during construction when specialist ecologists need to be present on site to oversee works.
 - (j) Responsible persons and lines of communication.
 - (k) The role and responsibilities on site of an ecological clerk of works (EcoW) or similarly competent person.

Thereafter the CEMP shall be implemented as approved during the construction phase of the development.

Reason: To limit any the impact of the construction works and protect ecology in accordance with ST14 and DM08 of the NDTLP.

- 21 No external artificial lighting, with the exception of the proposed emergency and motion sensitive security lighting, shall be installed during the operation of the site as a solar PV facility without the prior written consent of the Local Planning Authority.
- Reason: In the interests of the visual amenities of the surrounding area and for ecological purposes.
- 22 The CCTV cameras proposed as part of the approved development shall be angled into the site and such as to ensure that overlooking or a loss of privacy to neighbouring occupiers does not result.
- Reason: To protect the amenities of neighbouring occupiers.
- 23 All site accesses shall be hard surfaced for the first 10m back from the carriageway edge prior to the commencement of any other part of the permission hereby given.
- Reason: To avoid mud and debris entering the highway in the interest of highway safety.
- 24 The development, hereby permitted, shall be carried out in strict accordance with the details set out within the Waste Audit Statement, produced by RPS, received, 11th March 2024.
- Reason: To ensure all waste products arising from the construction and development of the site, is dealt with in a sustainable manner, in accordance with Policy DM03 of the NDTLP.
- 25 The development hereby permitted shall be carried out in accordance with the recommendations as set out within Section 4 [Discussion and Recommendations for Phase 2 Surveys] of the 'Preliminary Ecology Appraisal Report, 2022 (Updated 2023)' produced by RPS, received 21st December 2023; and Section 3.2 [Bats Mitigation] and 4.2 [Badger Mitigation] of the 'Ecological Impact Appraisal Addendum June 2024' produced by RPS, received 12th June 2024.
- Reasons: In the interest of protecting any protected species present, in accordance with Policies ST14 and DM08 of the NDTLP and the statutory legislation.
- 26 Prior to the Battery Storage Units being first brought into use, detailed design of the proposed acoustic barrier shall be submitted to, and approved, in writing by the Local Planning Authority. No power shall be exported from the site until the works have been approved and implemented in accordance with the agreed details.
- Reason: In the interest of the landscape character impact and the impact on neighbouring residential amenities, in accordance with Policies ST04, ST14, ST16, DM01, DM02, DM04 and DM08A of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

Plans Schedule

<u>Reference</u>	<u>Received</u>
RPS-0100-003	21.12.2023
ELGIN-PANEL-001 H	21.12.2023
ELGIN-SUB-004	21.12.2023
HLEF85858/FC_PROPOSED_A B	21.12.2023
ELGIN-PANEL-002	21.12.2023
V02 B	21.12.2023
HLEF85858/FC_PRE_A B	21.12.2023
100 / FIGURE 9 B	12.12.2023
1206-DEPTFORD-001 P	12.12.2023

1206-DEPTFORD-004 A	12.12.2023
ELGIN-FENCE&CCTV-001 B	21.12.2023
ELGIN-INVERTER-001 RI	21.02.2024

Informatives

01. The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:
- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
 - (b) the planning authority has approved the plan.

The Planning Authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Torridge District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply.

The Permission which has been granted is for development, which is exempt from the requirements set out within Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 [Biodiversity Net Gain] being:

- The application for planning permission was made before 12th February 2024.

Notwithstanding the above statutory provisions, the Condition 17 of the planning permission requires a Biodiversity Net Gain Plan to be submitted to, and approved by, the Local Planning Authority prior to the commencement of any development.

Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following and positive and proactive manner. We have made available detailed advice in the form of our statutory policies in the Development Plan, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In such ways the Council has demonstrated a positive and proactive manner in seeking solution to problems arising in relation to the planning application.