

WEST OXFORDSHIRE DISTRICT COUNCIL
LOWLANDS AREA PLANNING SUB-COMMITTEE

Date: 10th February 2020

Report of Additional Representations



WEST OXFORDSHIRE
DISTRICT COUNCIL

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Report of Additional Representations

Application Number	19/02516/FUL
Site Address	Twelve Acre Farm Chilbridge Road Eynsham Oxfordshire OX29 4BH
Date	29th January 2020
Officer	Joan Desmond
Officer Recommendations	Provisional Approval
Parish	Eynsham Parish Council
Grid Reference	441242 E 209314 N
Committee Date	10th February 2020

Application Details:

The construction and operation of a solar photovoltaic farm, and other associated infrastructure

Applicant Details:

Mr Mike Rutgers, 13 Berkley Street, London, W1J 8DU

Additional Representations:

Biodiversity Officer

I am satisfied with the information and details provided within the report. I have no objections to the proposed development subject to ecology conditions being attached to any permission granted.

Habitats

The site is reported to be dominated by arable and improved pasture fields. Hedgerows and treelines border and intersect the site. There are areas of woodland (deciduous and coniferous) in the north and species-poor semi-improved grassland mostly in the field margins. Overall, the dominating habitats (e.g. arable and pasture fields) are considered to be of lower ecological value whilst the boundary habitats (e.g. trees, shrub and hedgerows) are of higher ecological value and provide connectivity within the wider landscape. There is also the Chil Brook that runs through the site which is lined with mature trees and shrubs. I understand that the habitats of higher ecological value will not be impacted and will further be enhanced through measures such as native hedgerow planting and the conversion of field margins to species-rich wildflower meadows to buffer hedgerows and the Chil brook. The habitats of lower ecological value will also be retained (e.g. the improved grassland) or enhanced through converting existing arable habitat to pasture grassland. Section 6.2. of the report states that the arable fields will be under grazed pasture management with the remainder being converted to wildflower grassland and this is satisfactory. However, a contingency plan will need to be prepared to consider other management alternatives in case there are issues with primarily using livestock (e.g. it may be difficult to find the livestock at the specific times of year).

The details for the above enhancement and management measures should be submitted to the LPA within a Biodiversity Management Plan (BMP). This can be submitted as a condition for planning consent. The plan should include details regarding the management for each habitat within the site (including the grazing regime and alternative management). I have reviewed the Grassland Management Plan (detailed in Appendix 6 of the ecology report) and the Framework Landscape and Biodiversity Plan (drawing no.06) and these should also be included within the BMP. The plan can be informed by SPIES (Solar park Impacts on Ecosystem Services) which is a support tool that provides information for solar park development and management.

I also recommend for further enhancements to include the creation of a wildlife pond. Through email correspondence, I understand that no ponds will be affected by the developments and

therefore the creation of a wildlife pond is not considered necessary. However, this would be a further enhancement within the site and should still be considered as it would be in accordance with paragraphs 170, 174 and 175 of the National Planning Policy Framework and the policy EH3 of the local plan, ensuring the creation and protection of valuable biodiversity features and habitats as well as providing biodiversity net gain on site.

Species

The Phase I and Preliminary Protected Species survey showed potential for a number of protected species on site such as bats, badgers, reptiles, birds and water vole. The Phase I walkover particularly noted an individual Grass snake and Skylark. The report states that the impacts to these species are likely to be minimal, providing that the appropriate mitigation is undertaken. The mitigation measures within section 6 of the report are considered satisfactory.

Enhancement features that have been recommended in the ecology report, such as new hedgerow boundaries and wildflower meadow buffer areas, will provide foraging and commuting opportunities for protected and priority species within the landscape. The Framework Landscape and Biodiversity Plan identifies enhancement measures and I understand from email correspondence that these measures will be beneficial for reptiles. However, this is currently unclear within the plan. The BMP should further detail the aims and objectives of management (specifically for particular protected and priority species) to clarify this.

Section 6.3.5 of the ecology report considers bird species such as Skylark and states that the proposed development is likely to increase the opportunities of suitable nesting habitat for the species. This should therefore be referred to within the BMP.

It is important to note that there are also a number of barn owl records on site so I suggest that the applicant considers implementing barn owl boxes (e.g. a pole mounted barn owl box). Details for these boxes are available at <https://www.barnowltrust.org.uk/barn-owl-nestbox/barn-owl-pole-nest-box/>.

Cable route

The Planning, Design and Access Statement as well as section 6.5 of the ecology report detail the proposal of a 2km cable route located to the north-east of the site, adjacent to the A40 road and Cuckoo Lane. This would involve digging a 1m wide cable trench along the roadside verge. This work has the potential to impact a number of protected and priority species. For example, although the ecology report identified GCN as being absent within 3 of the ponds to the north of the site, the cable route will run in close proximity to additional ponds to the north of the A40. GCN may be present within these ponds or use the surrounding terrestrial habitat and there may be short-term disturbance to this species, as well as to other protected species such as nesting birds and badgers. These impacts should be avoided or minimised.

The ecology report proposes that a Construction Ecological Management Plan-Biodiversity (CEMP-B) is prepared and for this to be informed by a site walkover (assessing the land within 30m of the cable route) to identify ecological features or species that may be impacted by the proposal. The report will identify measures to avoid, minimise and compensate for the impacts. This is considered satisfactory and the report should include specific method statements to detail the precautionary procedures in regards to protected species (e.g. GCN, nesting birds, hedgehogs, reptiles and badgers). The CEMP-B is required to be submitted to the LPA as a condition of planning consent. Following on from the CEMP-B, a verification report by a professional ecologist or the ecological clerk of works will need to be submitted to the LPA to confirm that the mitigation measures in the CEMP-B were adequately implemented to their satisfaction and what remedial measures were implemented or are required to be implemented. I have recommended a condition below.

Other comments

The site, as well as the proposed cable route, is located within the amber zone of the impact risk map of the great crested newt district licence scheme so works (e.g. the construction of the trench) may impact on suitable terrestrial habitat/features for great crested newts. The applicant may wish to consider entering the district licensing scheme administered on behalf of the council by

NatureSpace. This would mean that they would be covered in the event that a newt was found during works/clearance (it could just be moved out of harm's way in accordance with best practice mitigation guidelines). I recommend that the applicant considers entering the scheme by completing an enquiry form on the NatureSpace website. If the applicant does choose to join the scheme, confirmation is required before the determination of the planning application.

Chair of South Leigh Parish Council

Firstly thank you for including point 1.5 reducing the coverage of panels on higher ground etc and increasing the woodland and scrub cover. These are important things to our parish. As you no doubt aware we are a small parish with not a lot of experience in these matters and I now wish we had requested something similar in our original submission.

On this point, and several others as mentioned in your conclusion (5.42) and final recommendation (6) there seems to be an awful lot of very important information/agreements still to be provided to the extent that I would like to humbly suggest that the final decision is deferred to the March meeting when all the reports will be available giving committee members the time to consider them in detail and make fully informed and considered decision.

Again as mentioned in 1.5 it is a requirement that the applicants provides extra of woodland and scrub throughout the site. The applicant also states in 5.17 that they have improved in tree planting scheme along the western and southern boundaries. Are there any details of exactly how this is going to be achieved? I feel there needs such a plan ensure any promises are kept to.

Although we agree that the access off the A40 is a much better idea I'm not clear whether this will remain the permanent access or will be returned to farmland after the construction phase is finished. Will it become a new permanent access thus encouraging further development in the surrounding fields?

I have no experience of battery storage but are there any statutory requirements to ensure the safety of such batteries and should this not be included in any planning application.

Finally could I ask that a new location map is provided to the committee that shows the whole proposed site and its connection not only to Eynsham but also to South Leigh and shows the full extent of public right of way. Could it also show the access road to the A40.

Eynsham Parish Council

Additional comments in view of consultee responses received – 5 February 2020

11. OCC Transport Schedule – 31 December 2019 - "A construction access from the A40 is considered acceptable if movements are restricted to left-in and left-out only." Eynsham Parish Council is concerned that this condition will not be enforced and therefore highway users' safety could be compromised by vehicles attempting to manoeuvre against the flow of traffic. It is therefore recommended that a physical mechanism/barrier is installed at the junction to inhibit unauthorised vehicle movements.

12. OCC Transport Schedule – 31 December 2019 - "All vehicles will have the opportunity to change direction on the A40 either at the Eynsham roundabout (to the east) or at the Shores Green interchange (to the west). Vehicles must be barred from turning at Barnard Gate because there is no ghosted right-turn filter lane, so HGVs in particular would cause an obstruction if they were waiting to turn right off the A40 here. Vehicles must also be advised not to attempt to use the adjacent laybys to change direction." Owing to recent experiences, the Council is concerned that these conditions will not be enforced, however appropriate they might be. It is recommended that those accessing the A40/the site be reminded of the CTMP by way of directional or instructional signage.

13. Thames Valley Police – 1 November 2019 - It is noted that there is a substantial volume of security fencing around the various array areas. Whilst Thames Valley Police recommend this is installed at a minimum height of 2.1m, it should be noted that the fencing will further negatively impact this rural area.

14. Biodiversity Officer – 3 February 2020 - In consideration of the protected species already identified at the site, it is recommended that all reports requested by Esther Frizell-Armitage, Assistant Biodiversity Officer are submitted to the District Council before the application is determined to allow members to be fully informed of the impact to nature.

Other comments

15. Eynsham Parish Council has not been provided with the proposed legal agreement before the Lowlands Area Sub-Planning Committee meeting and is therefore unable to comment on it.

16. Eynsham Parish Council wish to make it clear that it only requests the District Council to consider its S106 funding request (as detailed overleaf) on its behalf and not the 'community benefit/ownership model' for various reasons.

A full copy of the Parish Council letter is attached.

Comments from applicant

Construction Access – Confirm that construction access will be via the A40. However, should the legal concerns around the A40 Access prove to be insurmountable, we will come back to request permission to use the Chilbridge Road Access so that you can give that your due consideration at that time.

Indicative layout - We have managed to reduce some of the gaps between areas of panels and remove some others altogether. We have now taken panels off the highest ground on the south sloping side of the site. This also creates a larger setback between the footpath and the site, plus opens up some views of the fields between the southern and northern sections of the site, which is more evident in the revised photomontage (below). The area of development within the fenceline has now been reduced by approximately 7% from 41.6 hectares to 38.6 hectares.

Footpath Details – The fence is now moved behind the hedgeline, and creates a generous corridor of effectively 15m width in which the footpath and wildflower meadow would sit.

Framework Landscaping and Biodiversity Plan - This incorporates the reinstatement of two former hedgerows in the southern field which will help to slightly break up the massing of the panels and provide a landscape benefit. The tree-spacings along the western boundary on the southern section of the site have been decreased to 15m thereby closing the gaps further and assisting to break up views of the bottom of the site. In the final planting plan (to be conditioned) we could also include trees with 15m spacings further up the western boundary, to the north of the Public Right of Way which bisects the site, should you or the landscape officer wish.

Officer comments

The recommendation was provisional permit subject to issues being resolved relating to landscape harm from the solar panels being sited on the higher ground and ecology concerns. As set out on the late representation sheet, the Biodiversity Officer now raises no objection to the application subject to various ecology conditions. Discussions have been held with the applicant involving the Landscape Officer to explore the possibility of locating the panels of lower ground including land to the west and to enhance mitigation measures through extra planting. The applicant has advised that the land to the west is not within their control and other land within their control is constrained. Nevertheless, some panels have been taken off the highest ground on the south sloping side of the

site and an improved mitigation scheme is being proposed with enhanced planting to the west and the continuation of existing hedgerows on the southern part of the site to help break up the areas of solar panels and provide additional screening. The treatment for the footpath crossing the site has also been amended so relocate the fencing behind the hedge.

As set out in the report this development would make a significant contribution to meeting targets for renewable energy and would contribute to the reduction of greenhouse gases. There are considered to be no available or suitable brownfield sites nor areas of lower quality agricultural land suitable for the solar farm development. Whilst the landscape impact is recognised, particularly of the panels sited on the higher ground, this impact will be mitigated by enhanced planting mainly along the western and southern boundaries where views are most sensitive. There are no technical objections to the application relating to ecology, highway safety or flood risk and there would not be an adverse impact on the setting of Twelve Acre farmhouse. A condition could also ensure that any areas of archaeological interest have adequate mitigation measures such as the requirement to place the panels on concrete pads. The application is thus recommended for permission subject to the conditions detailed below:

Conditions:

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

REASON: To comply with the requirements of Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

2. The development shall be carried out in accordance with the plan(s) accompanying the application as modified by the revised plan(s) deposited on 27th November 2019 & 6th February 2020.

REASON: The application details have been amended by the submission of revised details.

3. Prior to the commencement of the development hereby permitted, full details of the final locations, design and materials to be used for the panel arrays, battery cabins, inverters, control room, substations, power conversion system, HVAC unit, CCTV cameras and fencing shall be submitted to and approved in writing by the local planning authority. Subsequently the development shall be carried out in accordance with the approved details.

REASON: To ensure the development is carried out in a manner which minimises the visual impact on the character of the rural area.

4. No lights shall be erected within the site without the prior written agreement of the local planning authority.

REASON: To safeguard the character and appearance of the countryside and to protect foraging/commuting bats.

5. Should the solar panels not be used continuously for the production of energy for a period of six months, the panels, support structures and associated buildings shall be removed in their entirety and the land shall be restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

REASON: To prevent the retention of development in the countryside that is not being used for its intended purpose.

6. Prior to the commencement of any site works (including site clearance) a protected area shall be designated for all existing trees which are to be retained, and the trees shall be protected in accordance with a scheme which complies with the current edition of BS 5837: "Trees in relation to design, demolition and construction" that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The agreed measures shall be kept in place during the entire course of development. No work, including the excavation of service trenches, or the storage of any materials, or the lighting of bonfires shall be carried out within any tree protection area.

REASON: To ensure the safeguard of features that contributes to the character and landscape of the area.

7. That a scheme for the landscaping of the site, including the retention of any existing trees and shrubs and planting of additional trees and shrubs and wildflower meadow, shall be submitted to and approved in writing by the Local Planning Authority before development commences. The scheme shall be implemented as approved within 12 months of the commencement of the approved development or as otherwise agreed in writing by the Local Planning Authority and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub of equivalent number and species, shall be planted as a replacement and thereafter properly maintained.

REASON: To ensure the safeguarding of the character and landscape of the area during and post development.

8. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason - in the interests of highway safety and the residential amenities of neighbouring occupiers

9. No development shall commence, involving use of the A40 access, until details for the construction of a new priority junction at the location of the existing field access and the creation of visibility splays as shown indicatively on drawing no. 410558-MMD-XX-BA04-DR-C-0001 Rev. P2 have been submitted to and approved in writing by the Local Planning Authority and all works shall be completed in accordance with the approved details.

REASON: In the interests of road safety.

10. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing. The construction shall be in accordance with detail set out in document reference KC1670 - Aurora Solar Farm, Eynsham dated 25/10/19. The plan shall include phasing detail, pollution control and silt mobilisation during construction and re-instatement and decompaction of ground post construction.

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

11. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

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

12. Not less than 12 months before the cessation of the development hereby permitted, a Decommissioning Method Statement (DMS) shall be submitted to and approved in writing by the Local Planning Authority. The Decommissioning Method Statement shall include details of the removal of the panels, supports, inverters, cables, buildings and all associated structures and fencing from the site, and a timetable. The DMS shall also include details of the proposed restoration. The site shall be decommissioned in accordance with the approved DMS and timetable within 6 months of the expiry of the 40 year period of planning permission.

Reason: In the interests of visual amenity to accord with the NPPF

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

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2019)

14. Following the approval of the Written Scheme of Investigation referred to in condition 13, and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason - To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2019).

15. The development shall be completed in accordance with the recommendations in section 6 of the Ecological Assessment report, dated August 2019 and prepared by Landscape Science Consultancy Ltd. All the recommendations shall be implemented in full according to the timescales laid out in the recommendations, unless otherwise agreed in writing by the LPA, and thereafter permanently maintained.

REASON: To ensure that the species and habitats are protected in accordance with The Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 as amended, Circular 06/2005, the National Planning Policy Framework (in particular Chapter 15), Policy EH3 of the West Oxfordshire District Local Plan 2031, and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

16. Before development takes place, details of the provision of nesting opportunities for birds (e.g. pole mounted barn owl boxes) shall be submitted to the local planning authority for

approval. The details shall include a drawing/s showing the types of features, their locations within the site and their positions on the elevations of the buildings, and a timetable for their provision. The approved details shall be implemented before the dwellings hereby approved are first occupied and thereafter permanently retained.

REASON: To provide additional roosting for bats and nesting birds as a biodiversity enhancement, in accordance with paragraphs 170 and 175 of the National Planning Policy Framework, Policy NE13 of the West Oxfordshire District Local Plan 2011, Policy EH3 of the West Oxfordshire District Local Plan 2031 and Section 40 of the Natural Environment and Rural Communities Act 2006.

17. A Biodiversity Management Plan (BMP) shall be submitted to, and approved in writing by, the Local Planning Authority before commencement of the development. The content of the BMP shall include, but not necessarily be limited to, the following information:
- a. Landscape and ecological trends and constraints on site that might influence management;
 - b. Full details (including a revised site plan and species lists) of the creation and enhancement of habitats and features including the native hedgerow planting and infilling, native tree planting, creation of new wildflower grassland buffering the Chil Brook corridor, the conversion of field margins to wild-flower meadows, conversion of arable grassland to grazed pasture grassland (detailing a contingency plan for alternative management), a wildlife pond if possible and details of a pole mounted Barn Owl box on a revised site plan. Enhancement measures should particularly consider and refer to the creation of habitat for protected and priority species (e.g. Grass Snakes and Skylarks). Both the Grassland Management Plan and the Framework Landscape and Biodiversity Plan should be included.
 - c. Aims and objectives of the management and the appropriate management options for achieving these;
 - d. Prescriptions for management actions and an annual work schedule;
 - e. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-10 year period);
 - f. Details of the body or organisation responsible for implementation of the plan;
 - g. Ongoing monitoring and remedial measures;
 - h. Timeframe for delivery and reviewing the plan; and
 - i. Details of how the aims and objectives of the BMP will be communicated to the occupiers of the development.

The BMP 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 the conservation aims and objectives of the BMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented.

The BMP shall be implemented in full in accordance with the approved details.

REASON: To maintain and enhance biodiversity, and to ensure long-term management in perpetuity, in accordance with the NPPF (in particular Chapter 15), Policy EH3 of the West Oxfordshire District Local Plan 2031 and in order for the council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

18. No development shall take place (including ground works and vegetation clearance for the trench) until a Construction Environmental Management Plan - Biodiversity (CEMP-B) has

been submitted to and approved in writing by the local planning authority. The CEMP-B shall include, but not necessarily be limited to, the following:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of 'biodiversity protection zones';
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements for specific species such as GCN, nesting birds, reptiles, hedgehogs and badgers);
- d. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
- e. The times during construction when specialists ecologists need to be present on site to oversee works;
- f. Responsible persons and lines of communication;
- g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s);
- h. Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period; and
- i. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP-B shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

REASON: To ensure that protected and priority species (amphibians, reptiles, badgers and hedgehogs) and priority habitats are safeguarded in accordance with The Conservation of Habitats and Species Regulations 2010 (as amended), the Wildlife and Countryside Act 1981 as amended, The Hedgerow Regulations 1997, Circular 06/2005, the National Planning Policy Framework (in particular Chapter 15), Policy EH3 of the West Oxfordshire District Local Plan 2031, and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

19. A report prepared by a professional ecologist or the Ecological Clerk of Works certifying that the required mitigation and/or compensation measures identified in the CEMP - Biodiversity have been completed to their satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to the Local Planning Authority for approval within 3 months of the date of substantial completion of the proposed development. Any approved remedial works shall subsequently be carried out under the strict supervision of a professional ecologist following that approval.

Reason: To provide evidence that the impact on the calcareous grassland priority habitat is minimised as much as possible during construction in accordance with Policy EN8 of the Cotswold District Local Plan 2011-2031, Circular 06/2005, paragraphs 170 and 175 of the National Planning Policy Framework, and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

