

Application No: 14/2247N

Location: LAND TO THE NORTH EAST OF, COMBERMERE ABBEY,
COMBERMERE PARK DRIVE, DODCOTT CUM WILKESLEY,
WHITCHURCH, CHESHIRE, SY13 4AJ

Proposal: Installation of ground mounted photovoltaic solar arrays to provide circa 14 MW generation capacity together with inverter stations; sub station; landscaping; stock fencing; security measures; access gate; and ancillary infrastructure.

Applicant: INRG (Solar Parks) 13 Ltd

Expiry Date: 11-Sep-2014

SUMMARY RECOMMENDATION

Refuse

MAIN ISSUES

Impact of the development on:-

- Principle of Development
- Relevant Appeal Decisions
- Renewable Energy Production
- Highway implications
- Amenity
- Impact Upon Local Heritage Assets
- Landscape
- Trees and Hedgerows
- Ecology
- Flood Risk & Drainage
- Archaeology
- Agricultural Land Quality
- Aircraft Safety
- The impact upon the Public Right of Way
- The impact upon the Hazardous Installation

REASON FOR REFERRAL

This application has been referred to the Strategic Planning Board as it is a major development that includes an Environmental Impact Assessment.

DESCRIPTION OF SITE AND CONTEXT

The application site extends to 28.6 hectares and is located to the west of the A530 (Whitchurch Road) within the open countryside as defined by the Crewe and Nantwich Replacement Local Plan. Directly to the south of the site is an Area of Special County Value.

The application site lies adjacent to Combermere Historic Park & Garden which is listed as Grade II. There are a number of listed buildings in the grounds of that park (Grade I listed Combermere Abbey, Grade II* Game Larder, Grade II Sundial, the Grade II listed North Service Wing and Grade II listed South Service Wing, the Grade II Stable Block and the Grade II Ice House.). Adjacent to the site to the south is the Grade II New Lodge and directly to the south of that is the Grade II Kennelwood.

Comber Mere SSSI (Site of Special Scientific Interest) is located about 100m from the proposed development at the closest point. Newhall Cut Local Wildlife Site (LWS) is located on the eastern boundary of the application site. The LWS supports a regionally significant population of white clayed crayfish. Combermere Big Wood LWS is located on the western boundary of the application site.

The application site is in agricultural use and is split into two fields with a wooded pond located in the south-western field. A water course (Newhall Cut) runs along the eastern boundary of the site.

There is a pipeline crossing the site which is identified as a hazardous installation.

There is a number of PROW in the vicinity of the site including PROW (Newhall FP16) which runs across part of the eastern boundary of the site.

DETAILS OF PROPOSAL

The development proposal is for a circa 14MW Solar Park laid out across approximately 28.6 hectares of agricultural land within the agricultural holding of Combermere Abbey Estate. This would provide the annual power needs of approximately 3,000 households and the Environmental Statement identifies that this would save in the region of 8,200 tonnes of carbon dioxide that may be otherwise be generated through the burning of traditional fossil fuels.

The photovoltaic panels would be mounted on a supporting metal framework orientated south. The panels would be laid out in arrays (rows) running east to west across the field enclosures. The maximum height of the arrays will respond to topography and will be capped at approximately 2.2m above ground level. The arrays are supported at approximately 3m intervals by posts which are driven into the ground.

A total of 10 Inverter cabinets and transformer cabinets are required to ensure that the DC energy produced by the PV arrays is converted into AC energy, as required by the national grid and ensure it is transferred from low to medium voltage. A sub-station would be positioned within the development site to house the equipment that connects the PV plant to the local energy distribution network.

The development would have an operational lifespan of around 25 years.

In this case the application is accompanied by an Environmental Statement.

RELEVANT HISTORY

14/1202S – EIA Scoping Letter

14/1135S – EIA Screening Letter – EIA Required

POLICIES

National Planning Policy

The National Planning Policy Framework

Local Plan policy

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources

BE.5 – Infrastructure

BE.6 – Development on Potentially Contaminated Land

BE.14 – Development Affecting Historic Parks and Gardens

BE.16 – Development and Archaeology

BE.21 – Hazardous Installations

NE.2 – Open Countryside

NE.3 – Areas of Special County Value

NE.5 – Nature Conservation and Habitats

NE.6 – Sites of International Importance for Nature Conservation

NE.7 – Sites of National Importance for Nature Conservation

NE.8 – Sites of Local Importance for Nature Conservation

NE.9 – Protected Species

NE.11 – River and Canal Corridors

NE.12 – Agricultural Land Quality

NE.17 – Pollution Control

NE.19 – Renewable Energy

NE.20 – Flood Prevention

RT.9 – Footpaths and Bridleways

Cheshire East Local Plan Strategy – Submission Version

PG2 – Settlement Hierarchy

PG5 - Open Countryside

PG6 – Spatial Distribution of Development

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE1 - Design

SE2 – Efficient use of Land

SE3 – Biodiversity and Geodiversity

SE4 – The Landscape

SE5 – Trees, Hedgerows and Woodland

SE6 – Infrastructure
SE7 – The Historic Environment
SE8 – Renewable and Low Carbon energy
SE9 – Energy Efficient Development
IN1 – Infrastructure
IN2 – Developer Contributions

Other Considerations

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Circular 02/99: Environmental Impact Assessment
Town and Country Planning (Environmental Impact Assessment) Regulations 2011

CONSULTATIONS (External to Planning)

English Heritage: No comments received at the time of writing this report.

Environment Agency: No objection in principle to the proposed development. However the EA request that the following planning condition is attached to any approval:

- No development shall take place until a scheme for the provision and management of the undeveloped buffer zone alongside New Hall Cut is submitted to and agreed in writing by the local planning authority.

An informative should be attached to any decision notice.

Natural England: Originally objected due to lack of information.

Following the receipt of additional information they have stated that:

Natural England has reviewed the additional information submitted. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Comber Mere SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.

The Local Authority should assess the impact upon local sites of biodiversity/geodiversity, local landscape character and local or national BAP Habitats and species.

For advice on protected species refer to the Councils standing advice.

United Utilities: No comments received.

Strategic Highways Manager: The application form says there will be a new access however the D&A statement says the site will be accessed via the existing entrance and then onto the A530 which suggests the new access is not to the public highway.

In response the Strategic Highways Manager would require any new access to the public highway to be subject to an informative as follows:

Informative:- Prior to first development the developer will enter into and sign a Section 184 Agreement under the Highways Act 1980 and provide a new vehicular crossing over the adopted footpath/verge in accordance with Cheshire East Council specification. The developer should contact: CEHSouth@cheshireeasthighways.org

Environmental Health: Informatives suggested in relation to hours of operation and contaminated land.

Health and Safety Executive: The HSE does not advise, on safety grounds, against the granting of planning permission in this case.

Archaeology: It would appear that below-ground disturbance will be limited and restricted to the trenches for the cables, the service track, the footprints of the ancillary buildings, and a number of other installations. These represent a fairly small percentage of the site's total area and the Councils Archaeologist does not consider that further archaeological mitigation would be appropriate in this instance.

Shropshire Council: No comments received.

Garden History Society: No comments received.

National Grid: No comments received.

Cheshire East PROW: Informative to be attached to the decision notice.

Mid-Cheshire Footpath Society: No comments received.

Civil Aviation Authority: No comments received at the time of writing this report.

Manchester Airport: No objection.

VIEWS OF THE PARISH COUNCIL

Newhall Parish Council: Support the application.

Dodcott cum Wilkesley Parish Council: No comments received.

Wrenbury Parish Council: Wrenbury-cum-Frith Parish Council object to this application. The PC is concerned about the loss of agricultural land in the area, exacerbated by the number of solar parks currently proposed. There is also concern about the visibility of the site and the detrimental effect on the visual amenity of the area.

OTHER REPRESENTATIONS

No representations received.

APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Environmental Statement
- Design and Access Statement
- Supporting Planning Statement
- Tree Survey
- Statement of Community Involvement
- Waste Statement

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Principle of Development

National Planning Policy

The proposed development should be considered against the NPPF. This document identifies that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

The NPPF defines sustainable development and states that there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- *an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- *a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- *an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

The National Planning Policy includes the core planning principles of encouraging 'the use of renewable resources (for example, by the development of renewable energy)' and 'recognising the intrinsic character and beauty of the countryside'.

Paragraph 98 of the NPPF then goes on to state that local planning authorities should approve applications for energy development unless material considerations indicate otherwise if its impacts are or can be made acceptable.

There is further guidance within the Planning Practice Guidance which states as follows:

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include:

- *encouraging 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;*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing;*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

Local Plan Policy

The relevant policies relating to the principle of development, as contained within the Borough of Crewe and Nantwich Replacement Local Plan, are Policies NE.2 (Open Countryside) and NE.19 (Renewable Energy).

Policy NE.2 identifies that the open countryside should be protected for its own sake and that development should be kept to a minimum in order to protect its character and amenity. The policy states that:

'within the open countryside only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted'

The proposed development would be clearly contrary to Policy NE.2.

Policy NE.19 is considered to be consistent with the NPPF in that it is intended to ensure that such proposals cause minimum harm to the countryside, ensuring a quality environment for all residents of the Borough. Amongst other things policy NE.19 states that development will only be permitted where:

- *The development would cause no significant harm to the character and appearance of the surrounding area;*
- *The proposal includes effective measures to safeguard features or areas of particular landscape or nature conservation interest*

Emerging Policy

The most relevant policy of the Cheshire East Local Plan Strategy Submission version is Policy SE8 (Renewable and Low Carbon Energy) which states that *'the development of renewable and low carbon energy schemes (including community-led initiatives), together with any ancillary building(s) and infrastructure, will be positively supported and considered in the context of sustainable development and any impact on the landscape'*.

The Policy then goes on to state that weight will be given to the wider environment, economic and social benefits arising from renewable and low carbon energy schemes, whilst considering the anticipated adverse impacts, individually and cumulatively upon:

'The surrounding landscape including natural, built, historic and cultural assets and townscape; including buildings, features, habitats and species of national and local importance and adjoining land uses'.

The justification to the Policy then goes on to identify the technologies that will be most viable and feasible including *'solar thermal and photovoltaics on south facing buildings throughout the Borough. Ground mounted schemes may be more appropriate where they do not conflict with other policies of the plan'*.

Need for Renewable Energy

In relation to need, paragraph 98 of the NPPF makes it clear that Local Planning Authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy.

Conclusion

In this case the principle of the proposed development would be contrary to the Policy NE.2 contained within the Borough of Crewe and Nantwich Replacement Local Plan. However, there is significant support within the NPPF and through the emerging policy. As a result it is necessary to consider whether other material considerations indicate if the development is acceptable.

Relevant Recent Appeal Decisions

This is the first application of this type within Cheshire East and it should be noted that there may be many more applications to follow with EIA Screening letters submitted or issued for some 17 sites within the Southern part of the Borough.

Each application should be determined on its own merits but it is prudent to draw Member attention to the following similar appeal decisions which have been issued since the publication of the Planning Practice Guidance;

- Suffolk Coastal District Council – Hacheston (Appeal reference 2193911) – 22nd May 2014 – Application for a solar panel farm on 51 hectares of land within the open countryside. As part of this decision which was recovered and dismissed by the SoS it was concluded that; *‘there would be a major/moderate adverse impact on the landscape as perceived from the north side of the development and a similar visual impact for local recreational walkers’* and *‘there is significant doubt that maintenance and retention of the mitigation planting could be ensured for the 25 years of the scheme on the basis that the Unilateral Undertaking and associated agreements carry little weight. This is a critical consideration because of the site’s location in an area of countryside that is of special quality. The Secretary of State places significant weight on the harmful visual impacts’* and *‘the loss of a substantial area of productive agricultural land for at least 25 years is another negative factor’*
- Babergh District Council (Appeal Reference 2204846) – Wherstead – 2nd June 2014 – Application for a solar panel farm on 38.4 hectares of land within the open countryside. As part of this decision which was dismissed the Inspector concluded that; *‘the proposal would result in a significant, localised, adverse impact on the landscape in the short term, and whilst this impact would gradually reduce over time, it would nonetheless remain a considerable detraction from the rural character of the area. Therefore, the development does not respect the landscape’* and *‘it has not been demonstrated that the development of the agricultural land comprising the site is necessary. Nor has it been demonstrated that no suitable brownfield sites or sites of lower agricultural quality are available. Consequently, the Appellant has not complied with the sequential test set out in the PPG and, therefore, the proposal is not in accordance with Government guidance in this respect and is contrary to paragraph 112 of the Framework’*
- Swale Borough Council – Littles Farm, Kent (Appeal reference 2212592) – 13th June 2014 –As part of this decision which was dismissed the Inspector concluded that; *‘in view of the Planning Practice Guidance I have referred to, I conclude that the site’s use of BMV land, and its loss to most crops which rely (or crop most heavily) on such land, would significantly and demonstrably outweigh the renewable energy, biodiversity, employment, farm diversification and other benefits of the scheme and its accordance with certain elements of national and local policy. I therefore conclude that the scheme is not the sustainable development for which the Framework indicates there is a presumption in favour’*. In terms of the landscape impact the inspector found that the landscaping would take 5-7 years to take effect and would cause harm to the landscape during this period. It was found this added weight to the appeal decision but in view of the relatively limited period during which the harm would be likely to be experienced, it was not a determining factor in the decision.

Renewable Energy Production

The Environmental Statement submitted in support of this application identifies that the development would have *‘the potential to generate up to 14 MW of power (the equivalent to the annual energy consumption of about 3000 households)’*.

This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefiting energy security. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development.

Highway Implications

Policy issues

The test contained within the NPPF is that:

'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'

The development would use an existing access onto Whitchurch Road and the main impact upon the highway network would be of a temporary nature from construction traffic. The submitted Environmental Statement states that the proposed development will *'have an impact of less than 10% on the local highway network and the level of impact is considered to be minor or negligible and as such not significant'*.

In this case the Councils Strategic Highways Manager has considered the application and raised no objection to this development subject to the imposition of an informative.

Amenity

Given the isolated rural nature of the site there are no residential properties in close proximity to the application site. As a result it is not considered that the proposed development would raise any issues such as noise and disturbance.

Impact upon the setting of the Local Heritage Assets

As stated above there are a number of heritage assets in close proximity of the proposed developments and it is necessary to consider the impact upon the setting of these heritage assets. The heritage assets are as follows:

- Combermere Historic Park & Garden which is listed as Grade II.
- The Listed Buildings in the grounds of Combermere Historic Park & Garden (Grade I listed Combermere Abbey, Grade II* Game Larder, Grade II Sundial, the Grade II listed North Service Wing and Grade II listed South Service Wing, the Grade II Stable Block and the Grade II Ice House.).
- To the south of the site to the south is the Grade II New Lodge and directly to the south of that is the Grade II Kennelwood.
- Other Listed Buildings located in Wrenbury and Aston

Combermere Historic Park & Garden

The proposed solar arrays are to be located to the east of the Historic Park & Garden and will not be visible from within the park given the presence of the large area of adjacent tree planting within the Historic Park and Garden.

The proposed solar arrays will however have a modest degree of impact on the setting of the Historic Park & Garden in views from the footpath adjacent to its curtilage and in views of the Historic Park & Garden from routes leading to it and when viewed from afar. There may be scope to mitigate this in the case of the former for those using the footpath by the introduction of planting, and for the latter in terms of views from afar by planting trees in existing hedgerows and by good landscaping shields.

The Councils Conservation Officer does not consider that the proposed solar arrays will have an impact on the intrinsic merit of this Historic Park & Garden.

The Listed Buildings

As above, the proposed solar arrays will not be visible from within the park or the Listed Buildings given the presence of the large area of adjacent tree planting within the Historic Park and Garden. The solar arrays will therefore not have a direct visual impact on the listed buildings within the park.

Similarly the proposed solar arrays will not have a direct visual impact on the adjacent Grade II listed New Lodge or Kennelwood to the south for the same reason.

In addition the distance between the proposed solar arrays and the Grade II listed buildings to the east of the site in Aston and in the southern part Wrenbury will similarly serve to minimise the direct impact of the proposed solar arrays on these listed buildings.

Landscape

A key issue in the determination of this application is the landscape impact of this large scale development upon the open countryside and landscape character. This is a core principle of the NPPF and also identified within the Planning Practice Guidance and Local Plan Policies.

In the Cheshire Landscape Character Assessment 2008, the site falls within two different landscape character types and character areas. The western field falls within the Estate, Woodland and Mere Character type and the Cholmondeley character area and the eastern field is within the East Lowland Plain character type and the Ravensmoor character area.

Changes in farming including pressure to diversify is listed as an issue affecting landscape character within both the East Lowland Plain and the Estate, Woodland and Mere character types.

The applicant's agent has carried out a desk-based assessment of the local landscape character within a 2km radius of the site which reviews the sensitivity and capacity of the local landscape to accommodate the proposed development using defined criteria. It concludes that due to the low nature (i.e. height) of the proposals the landscape scale, landform, enclosure, skylines, and inter-visibility would not be affected by the proposed development.

It then states that on the site itself, the proposed development would result in a slight increase in complexity, built infrastructure and perceived human influence. The Councils Landscape Officer disagrees with this view and considers that there would be a major increase in these aspects on the site itself.

Within the local landscape of the 2km study area it considers that the development would represent a minor increase in complexity, built infrastructure and perceived human influence.

The assessment concludes that the landscape value of the area is medium and the overall sensitivity of the local landscape to the proposed development is medium.

The sensitivity to the proposed development of the various site elements and features were also assessed separately. These are: topography, trees and hedgerows, herbaceous vegetation, water bodies, public rights of way & highways.

The effects on the local landscape character and the site elements and features are assessed at the construction phase, at year 1 and at year 5 by considering the sensitivity and the magnitude of change. In EIA only substantial or major impacts are considered to be significant.

The L&VIA concludes the following:

- The effects of the development are reversible, any effects would be short to medium-term and there would be long-term residual beneficial effects through mitigation planting.
- The development could be accommodated within the existing landscape pattern and assimilated into the surrounding landscape without causing any long-term harm to the landscape character, visual amenity or existing landscape attributes.
- Significant effects would apply to the public right of way FP16 and the permissive footpaths. Mitigation planting would reduce the effect on the public right of way over time.
- The landform and enclosure of the site make this a location ideal for a solar installation of the type proposed and short-term local effects could be moderately mitigated by the proposed planting measures.

The proposed development would be for up to a 25 year period which is long-term but the solar panels and all infrastructure (except the access track) could be relatively easily removed and any adverse impacts are therefore reversible.

The existing site features would not be affected and the hedgerows would be enhanced through the proposed mitigation scheme.

The development would obviously have a major adverse impact on the landscape character of the site itself which would change from an agricultural character to an almost industrial character.

The development area is extensive (28.6 hectares) but due to the enclosure provided by the woodland to the south, the topography of the area and the abundance of trees and hedgerows in the landscape the Councils Landscape Architect feels that it would have a relatively low impact on the visual character of the wider landscape i.e. the Ravensmoor and Cholmondeley character areas and the ASCV.

The development would not affect the adjacent listed Combermere Park & Garden which is well screened by Brickbank wood, though users of the permissive footpaths within the wood would have filtered views of the development.

There would be an adverse impact on users of the public footpath FP16 which would in the short to medium-term be mitigated by the proposed landscape scheme.

There would be a long-term adverse visual impact on users of the permissive footpaths around the site – but these are only permissive routes.

There are relatively few residential properties in the area and due to distance, orientation, intervening landform and vegetation it is unlikely that any occupiers would have a significant adverse visual impact.

Views from the A530 Whitchurch Road (which is fast and busy) are well screened by roadside hedges and other intervening vegetation including Brickbank wood.

It is difficult to assess whether the solar panels located on the more elevated parts of the site would be discernible in longer distance views from the north but any views would be against a backdrop of Brickbank wood and are unlikely to be prominent.

Reflection and glare would not have an impact in the wider landscape as the panels are said to have no discernible reflection or glare and would be orientated towards Brickbank wood.

There are no objections to the proposed development from a landscape point of view subject to the imposition of planning conditions.

Trees and Hedgerows

The submitted Arboricultural Impact Assessment/Draft Tree Protection Plan states that no trees are proposed to be removed for the development. However in respect of those trees to be retained in and adjacent to the site the submission does not appear to have addressed or demonstrated the impact or otherwise of shading and solar access from existing trees and Brickbank Wood to the south on the long term efficiency of the proposed array. If it is to be assumed that the 20 metre shading zone shown in yellow on the site layout plan takes into account maximum existing and potential shading from trees and this allows for the array to work effectively without the requirement for future management of trees (pruning/topping/lopping/felling etc) then on this element of the application there would be no significant objections to be made from an arboricultural point of view. The lack of any discussion/evidence in the Arboricultural report on this matter leaves a question mark over the future management of trees in this location.

The Arboricultural report has indicated that the existing farm access to the site will be suitable and that facilitation pruning will be required to 2 Oak trees (T1 and T8) and trees within W2 and W3. The report states that such pruning will be minimal for ground clearance of construction traffic and lowest branches have been recorded in the Tree Survey at 4 and 5 metres. This should be acceptable provided it accords with the requirements of BS3998:2010. There are no details provided in the report as to the type of Construction vehicles that will use the farm access, so the comment that the existing farm access will be suitable cannot be verified.

As a result there are no tree objections to this development subject to the imposition of planning conditions.

Ecology

Comber Mere Site of Special Scientific Interest (SSSI)

The SSSI is located about 100m from the proposed development at the closest point.

Natural England has provided initial consultation comments on the potential impacts of the proposed development on the features for which the SSSI was designated. As a result of Natural England's comments the applicant has now submitted detailed breeding and wintering bird surveys.

A small number of the bird species for which the adjacent SSSI was designated have been recorded on site during both the winter and summer. These bird species are however associated with habitats on site that that would be retained on site as part of the proposed development.

In this case both Natural England and the Councils Ecologist state that it appears unlikely that the proposed development would have an adverse impact upon Comber Mere SSSI.

Newhall Cut Local Wildlife Site (LWS)

Newhall Cut Local Wildlife Site is located on the eastern boundary of the application site. The LWS supports a nationally significant population of white clayed crayfish.

There are unlikely to be any direct impacts on the LWS, however the submitted ES has identified a potential adverse impact occurring if there is any additional run off caused during periods of heavy rain. The Crayfish population present is of national importance consequently if any adverse impact were to occur as a result of run-off etc the impact of this it would be moderate significance. An 8m fenced buffer is proposed adjacent to the LWS.

The Councils Ecologist advises that the potential impacts on Newhall Cut could be further mitigated by means of a condition requiring the submission of a construction environment management plan prior to the commencement of development.

Combermere Big Wood LWS

This Local Wildlife Site is located on the western boundary of the application site. The submitted ES has identified a Minor adverse impact resulting from damage to tree roots, installation of security fencing, and the potential impacts of runoff and dust associated with the development.

Adjacent Woodlands

The proposed works compound is located immediately adjacent to the woodland located to the south of the application site. A letter from the applicant states that the works compound has been relocated however the submitted site layout plan (revision 8) appears to show the temporary works compound in the same location as previously. This issue could be resolved through the imposition of a planning condition.

Ephemeral ponds

A number of small ephemeral ponds occur on site. The submitted ES states that there are 4 in total.

The Councils Ecologist advises that small ephemeral ponds can be of considerable nature conservation value and ponds of this nature are regarded as being a Local Biodiversity priority habitat.

In accordance with the earlier consultation comments from the Councils Ecologist two of the ephemeral ponds have now been shown as being retained as part of the proposed development.

Permanent pond

The main pond located in the centre of the site has been identified as a Great Crested Newt breeding pond and will be retained as part of the proposed development. A minor negative impact is anticipated by the submitted ES due to construction related disturbance. The submitted ES proposes a 6m buffer be provided around the retained ponds to mitigate this impact.

The submitted ES states that sheep grazing which may occur on site once the solar arrays are operational may result in a minor negative impact on the pond and proposes the pond be fenced to mitigate this impact.

The Great crested newt report however recommends that the southern aspect of the pond be opened up to allow more light to penetrate the pond and the Councils Ecologist advises that some access by grazing animals to the south of the pond would be beneficial in ensuring that the this aspect of the pond remains open.

Hedgerows

It appears that the existing hedgerows on site would be retained as part of the proposed development. The submitted ES however anticipates a minor negative impact during construction phase due to dust, run off and disturbance.

Summary of potential impacts on Habitats and Designated Sites

In summary, the ES identifies a number of potential impacts occurring as a result of disturbance and dust etc during the construction phase. It should be born in mind however that these impacts would not be significantly greater than those associated with the existing agricultural operations on the site. These impacts could be mitigated through the implementation of a Construction Environmental Management Plan, outline details of which are included with the ES. The Councils Ecologist advises that if planning consent is granted a condition should be attached requiring the submission and agreement of the Construction Environment Management Plan prior to the commencement of development.

Protected and Priority Species

Breeding and Wintering Birds

As a result of the recently completed Wintering and Breeding bird surveys the application site has been assessed as being of 'District' value for birds with a number of notable bird species being present many of which are a material consideration for planning . The value of the site reflects the range of habitats present on and adjacent to the site which include; woodland, scrub, hedgerows, marshy grassland and open agricultural fields.

The Councils Ecologist advises that much of the habitat utilised by some of the species of breeding and wintering birds on site would be retained as part of the proposed development.

There would however be a loss of habitat for those species associated with the open agricultural fields. Some bird species associated with this habitat may adapt to the presence of the solar panels, but those specialist open habitat species are likely to be deterred from using the application site once the solar panels were installed. The number of individual birds affected by the development is relatively small and the application site presents only a proportion of the available habitat. The application has been assessed by the submitted ES as having a moderate adverse impact upon these specialist bird species at the district scale.

The submitted bird surveys recommends that the residual adverse impacts of the development be compensated for through either off site habitat enhancement works or by means of a commuted sum (which appears to be the preference of the applicant). The Councils Ecologist advises that in the event that planning consent were granted, this approach would be acceptable to address the residual impacts of the proposed development in the event that planning consent is granted.

Great Crested Newts

Great Crested Newts have been recorded at a number of ponds within 250 of the proposed development. The cluster of ponds supports a medium sized meta-population of Great Crested Newts. No Great Crested Newt breeding ponds will be affected by the proposed development and the terrestrial habitat lost as a result of the proposed development is of low value for this species.

The proposed development could however, in the absence of mitigation, result in the killing or injuring of Great Crested Newts during the construction phase.

To mitigate the potential impacts of the proposed development the applicant is proposing to retain the more important areas of terrestrial habitat and the Councils Ecologist advises that the change of land use from the existing arable usage to permanent grassland would lead to an increase in the available terrestrial habitat for amphibians.

Considering the poor quality of the terrestrial habitat offered by the proposed development site, the submitted ES advises that the proposed development could potentially proceed without resulting in a significant risk of great crested newts being killed or injured if the works are completed between 1st November and the 28th February when Great Crested Newts are likely to be in hibernation outside the application boundary.

If planning consent is granted the Councils Ecologist recommends that a condition be attached limited operations on site to this period. Provided this condition is attached the Councils Ecologist advises that the proposed development would not pose a significant risk of an offence occurring under the Habitat Regulations and the Council would not be required to have regard to the requirements of the regulations during the determination of the application.

Common Toad

This UK BAP species which is a material consideration for planning has been recorded during the Great Crested Newt surveys. The Councils Ecologist advises that the potential impacts of the

proposed development upon this species would be adequately addressed through the proposed great crested newt mitigation described above.

Other Protected Species

An acceptable survey has been submitted. A main sett has been recorded on site. To mitigate the potential impacts of the development a 25m undeveloped standoff from the sett is proposed by the Environmental Statement and is shown on the submitted revised layout plan. The submitted ES identifies a minor negative impacts anticipated due to minor disturbance, temporary loss of foraging, installation of security fencing etc. The ES states that this impact will be mitigated through the provision of a 200mm gap beneath the security fence which would enable badgers to access the application site for foraging purposes. This approach is acceptable.

The Councils Ecologist advises that if planning consent is granted a condition be attached to ensure that a further badger survey is undertaken prior to the commencement of development. A condition should also be attached requiring the provision of the 200mm gap beneath the security fence.

Bats

The Councils Ecologist advises that on balance roosting bats are unlikely to be significantly affected by the proposed development to any greater extent than the existing agricultural usage of the application site.

Barn Owls

The Case Officer witnessed a Barn Owl on an adjacent field during the site visit. In this case the Councils Ecologist does not anticipate that the proposed development is likely to have a significant impact upon this species subject to a condition to secure a suitable scheme for breeding and roosting barn owls.

Water Voles and Otter

A survey for these species was undertaken in November which is a poor time of year for determining the presence /absence of water voles. These species are unlikely to be directly affected by the proposed development. However there is the potential for minor disturbance of Otters to occur (if the species was present) during the construction phase of the development. The Councils Ecologist advises that this disturbance is unlikely to be significant and would not, in respect of otter, be likely to result in an offence under the Habitat Regulations.

Brown Hare and Hedgehog

These two priority species may potentially occur on site. The greatest majority of habitat for these species would be retained upon site and cessation of ploughing may increase the available habitat. The site would not however be accessible to some species due to the need for security fencing resulting in a minor impact on hares. The proposed gap under the security fence, required for badgers, would however assist in mitigating the potential impacts of the development upon these species.

There is very low risk of juvenile hares being killed during the construction phase.

Landscape and Ecological Management Plan

A management plan has been submitted in support of the application. This includes a suite of mitigation proposals to be implemented during the construction phase to minimise the potential impacts of the development upon ecological interests and also proposals for the on-going management of the site.

The Councils Ecologist advises that the implementation of these measures, together with the required Construction Environment Management Plan would mitigate the majority of potential adverse impacts of the development and potentially lead to an overall gain for nature conservation.

Flood Risk/Drainage

In this case the area to be developed site is located within Flood Zone 1, as identified by the Environment Agency Flood Maps. This defines the site as having less than 1 in 1000 years annual probability of flooding in any 1 year.

The submitted Flood Risk Assessment concludes that *'the proposed change of use will provide a real contribution to soil improvement and biodiversity, and a significant reduction in runoff from the site, bringing significant overall benefits to the environment and renewable energy. The site will be safe and durable and is not at risk of flooding'*.

The Environment Agency has considered the Flood Risk Assessment and has raised no objection subject to the imposition of a planning condition.

Archaeology

The application is supported by a Cultural Heritage study which has been prepared by Cotswold Archaeology on behalf of the applicants.

The report considers data held in the Cheshire Historic Environment Record and also contains the results of an examination of the historic mapping, aerial photographs, and readily-available secondary sources. It concludes that in view of the lack of designated and undesignated Heritage Assets from within the application area, the fact that the study has not highlighted any new areas of archaeological potential, and the limited below-ground impact of the development further archaeological mitigation will not be required.

The Councils Archaeologist has stated that he had initially thought that in view of the size of the site and the disturbance that would be caused by the construction process, this final conclusion might be open to question. However having studied the information in more detail with particular reference to the *Site Layout* plan and the *Section* plan the Councils Archaeologist concludes that below-ground disturbance will be limited and restricted to the trenches for the cables, the service track, the footprints of the ancillary buildings, and a number of other installations. These represent a fairly small percentage of the site's total area and the Councils Archaeologist does not think that further archaeological mitigation would be appropriate in this instance.

Agricultural Land Quality

The Combermere Abbey Estate extends to 425 hectares of which 220 hectares are farmland with the majority down to pasture with small areas of arable use. The Environmental Statement identifies that the site was in arable use until the winter of 2013/14 and during Spring 2014 the land was reseeded as pasture for mixed grazing and wildlife conservation.

The Environmental Statement identifies that the site will not be available for livestock or grass conservation during the construction period but will remain capable of continued agricultural production, being grazed by sheep or for the rearing of free range turkeys or hens during the operational phase.

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land
- Other sustainability considerations suggest that the use of higher quality land is preferable

The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The Planning Practice Guidance states that Local Planning Authorities should consider '*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.*

The guidance references a Ministerial speech of April 2013 by the Rt Hon Gregory Barker MP which includes the *statements "Solar is a genuinely exciting energy of the future, it is coming of age and we want to see a lot, lot more. But not at any cost... not in any place...."* And "*Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation...."*

The environmental Statement submitted in support of this application states that the development would utilise the following areas of land;

- Grade 2 – 9.2 hectares – 32% of total site area
- Grade 3a – 8.6 hectares – 30% of total site area
- Grade 3b – 10 hectares – 35% of total site area
- Non agricultural/other – 0.8 hectares – 3% of total site area

Therefore the proposed development would result in the loss of 17.8 hectares of best and most versatile agricultural land for the 25 year lifetime of the development.

The issue of loss of BMV was a key issue at the three appeals listed above where the solar panels were proposed for 25 years resulting in the loss of BMV. As part of two appeals (Swale District Council and Bebergh Borough Council) the Inspector concluded that the word *necessary* requires

a developer to provide a sequential test to support their application, which demonstrates that there are no more suitable alternative sites (brownfield and then greenfield) within the vicinity. The Inspectors also concluded that the search area should not be confined by district boundaries.

In respect of both appeals, the Inspector was very dismissive of the lack of evidence provided by the developer to justify the use of a greenfield as opposed to a brown field site and agricultural land of an inferior quality. The Inspectors set a very high bar in respect of what was needed to demonstrate that the proposal was *necessary*.

In this case the applicant has not undertaken any search for non-agricultural land which could include Cheshire East's or Shropshire's industrial areas, including distribution and warehousing buildings or the attached to the roofs of the large agricultural buildings which are located throughout the two Boroughs. This approach is far from robust and is completely inadequate. Consequently, the applicant has not demonstrated that the use of agricultural land is necessary.

Even if the use of agricultural land were considered to be necessary, the Applicant has not demonstrated that poorer agricultural land has been chosen in preference to higher quality land.

The application statement that the land could still be used for agriculture (grazed by sheep or for use by free range turkeys or hens) is not accepted. The use by hens or turkeys would require agricultural buildings (for welfare and protection from predators and unpredictable events e.g. weather, low flying aircraft) which are not present on site and such uses may require close supervision with provision of an agricultural workers dwelling. The use of land for sheep grazing was also discounted as part of the Swale District Council decision where the Inspector found that *'sheep grazing which is proposed for the site could take place on almost any agricultural land, including potentially on a non BMV site also used for solar arrays'*

Aircraft Safety

At the time of writing this report a consultation response was awaited from the Civil Aviation Authority. However Manchester Airport had raised no objection to the development.

Impact upon the Public Right of Way (PROW)

Public Right of Way (Newhall FP16) runs across part of the eastern boundary of the site. The proposed development would not encroach onto the PROW or obstruct any users of the PROW. No objection has been raised on these grounds from the Councils PROW Officer.

In this case the main impact would be the visual impact for users of the PROW which is considered within the landscape section above.

Impact upon the Hazardous Installation

There is an underground pipeline which runs through the application site which is classed as a hazardous installation. In this case the proposed development would not be located above the pipeline and the HSE does not advise, on safety grounds, against the granting of planning permission in this case.

As a result the proposed development is considered to be acceptable and complies with Policy BE.21 of the Crewe and Nantwich Replacement Local Plan.

CONCLUSIONS

The proposed development would provide a source of renewable energy to power 3000 homes. This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefiting energy security. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development.

Subject to appropriate mitigation and the imposition of a number of suitably worded planning conditions the development would not have a detrimental impact upon protected species, ecology, surface water quality or flood risk.

It is not considered that the development would have a detrimental impact upon the pipeline which crosses the site.

There would be no tree losses associated with this application and on balance it is not considered that a reason for refusal on landscape grounds could be sustained.

The development would not have a detrimental impact upon the local highway network or the use of the PROW which crosses the site.

The impact upon the built heritage including the Historic Park and Garden and the archaeology of the site is considered to be acceptable.

However in this case the proposed development would result in the loss of 17.8 hectares of best and most versatile agricultural land for the 25 year lifetime of the development. It is considered that this loss would outweigh the benefits of the scheme and as such the development is recommended for refusal.

RECOMMENDATIONS

REFUSE for the following reason:

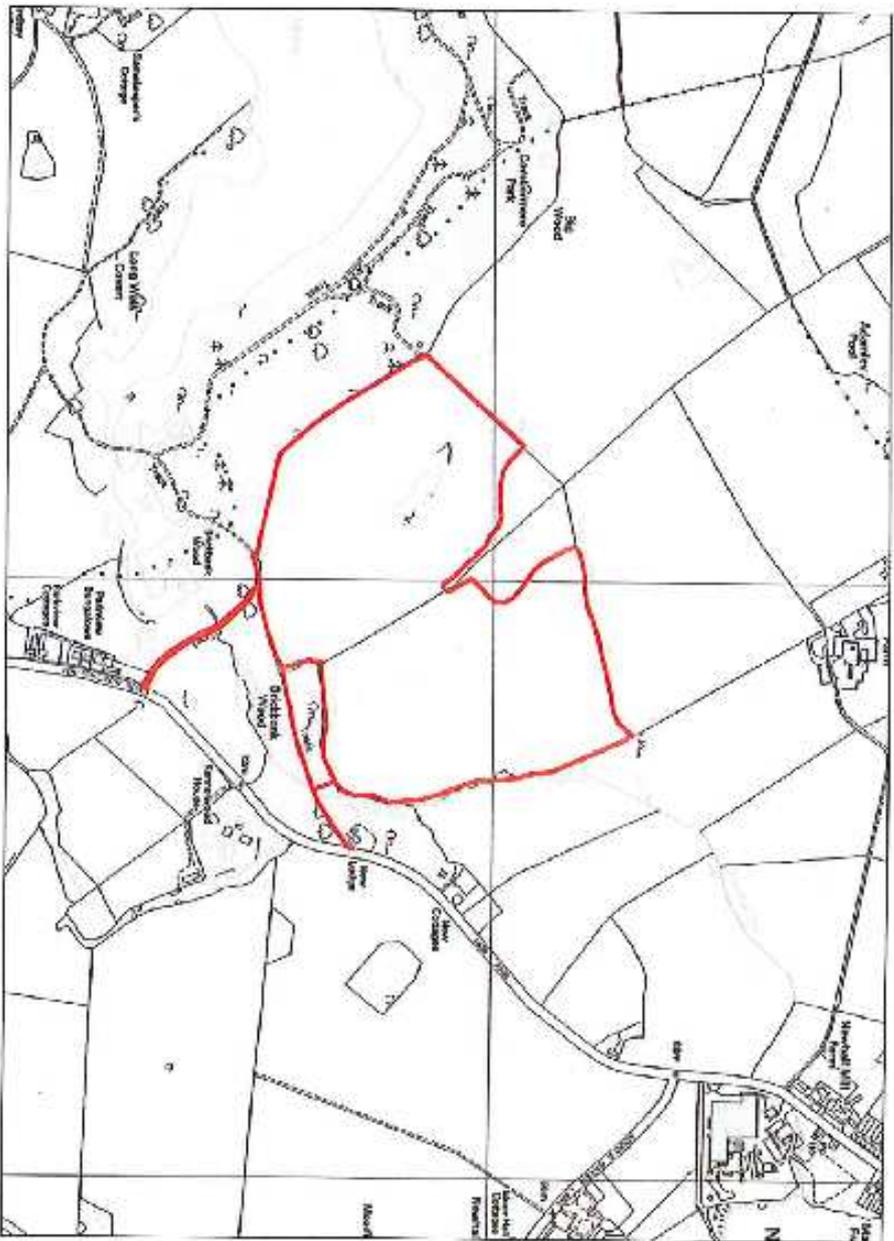
- 1. The proposal would result in loss of the best and most versatile agricultural land and there is no evidence that the development could not utilise brownfield land or agricultural land of an inferior quality. The use of the best and most versatile agricultural land is unsustainable and contrary to Policy NE.12 of the Borough of Crewe and Nantwich Replacement Local plan 2011, Paragraph 112 of the National Planning Policy Framework and guidance contained within paragraph 13 of the Renewable and Low Carbon Energy Section of the Planning Practice Guidance.**

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in her absence the Vice Chair) of the Strategic Planning Board and Ward Member, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

Heads of Terms

- **Provision of an Ecology Contribution (Sum TBC) to mitigate the impact upon wintering and breeding birds**



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Comberton Abbey,
 Whichurch

Site Location Plan

Date: 04.04.20

Drawn by: [Name]

Checked by: [Name]

1:10,000 Scale

BRS/4971_01-1a



Pegasus