

Application No: 14/4380N

Location: HURST HALL, WRENBURY ROAD, MARBURY, CHESHIRE, SY13 4LU

Proposal: Installation of a solar park with an output of approximately 13.28MW on land associated with Hurst Hall.

Applicant: Markus Wierenga, Green Switch Developments Ltd

Expiry Date: 22-Dec-2014

SUMMARY

The NPPF requires that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.

In terms of sustainability, the benefits of the provision of a source of renewable energy, for which there is a recognised need, outweighs harm to the local environment having regard to the impact on open countryside and agricultural land.

The proposal would satisfy the economic and social sustainability roles by providing energy from a renewable, low carbon source.

The proposal is considered to be acceptable in terms of amenity, flood risk, highway safety and ecology.

The significant harm to the landscape character of the area however, is considered to significantly and demonstrably outweigh the benefits of the scheme, rendering it environmentally unsustainable.

The scheme therefore represents an unsustainable form of development and the planning balance weighs against supporting the development.

RECOMMENDATION:

Refuse due to significant adverse impact on landscape character.

PROPOSAL

The development proposal is for a circa 13.28MW Solar Park laid out across approximately 22.9 hectares of agricultural land within the existing field boundaries.

The panels would be freestanding units constructed of toughened glass set in aluminium frames. They would be mounted close to the ground (approx 2.33m high with a tilt angle of 25 degrees), and fixed in position through piles driven into the ground, meaning that no concrete

foundations are required. There would be approximately 54,230 panels. The panels would be arranged in rows on an east to west alignment, facing south to maximise exposure to sunlight. Security fencing would be erected around the boundary to restrict access to the site.

The solar park would be an unmanned facility and a control building/substation would be constructed close to the point of connection and would house 'Low Tension and High Tension' control panels and a transformer. This is the subject of a second application on this agenda (14/4500N). Ten inverters will also be installed at the site housed in a weather proof fibre glass enclosure.

Access during the construction period, for maintenance and subsequent decommissioning, would be from an existing access track off Wrenbury Road, through the farm yard and entering the site via the south eastern corner of the southernmost field on the site.

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

SITE DESCRIPTION:

The application site is located in the south west of Cheshire East and covers an area of approximately 22.9 hectares of what is currently agricultural land, extending over a number of fields.

The topography of the wider area is broadly undulating and this is true of the site itself, in which the land generally slopes down to the Llangollen Branch of the Shropshire Union Canal, although there are distinct variations in topography across the application site.

The wider landscape surrounding the application site is agricultural and the Llangollen Branch of the Shropshire union canal is located just to the north of the site, Footpath 16 Norbury follows this route. The South Cheshire Way, a long distance footpath (Footpath 16 Marbury cum Quoisley) follows the southern boundary of the applications site.

The site is designated as being within Open Countryside in the adopted local plan.

RELEVANT HISTORY:

Environmental Impact Assessment screening and scoping opinions have been requested relating to this site. (14/4196S, 14/3982S, 14/1834S and 14/1722S)

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 98.

Development Plan:

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site as being within Open Countryside.

The relevant Saved Policies are: -

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

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

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:

Highways:

There will not be a material traffic impact from this development with the development phase the only element of traffic generation. No objection raised subject to a condition being attached requiring a detailed Construction Management Plan prior to first development.

Environmental Health:

An informative suggested in relation to hours noise generative work.

Environment Agency (EA):

No objection in principle to the proposed development. This is subject to a condition requiring the development to be carried out in accordance with the submitted flood risk assessment.

Natural England:

In terms of the Wildlife and Countryside Act 1981 no objection and requires no conditions. In terms of impact on agricultural land, Natural England considers that the development is unlikely to lead to significant and irreversible long term loss of the best and most versatile agricultural land.

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

Archaeology:

It is not considered that the potential for archaeological deposits is significant enough to justify an archaeological objection to the development or to lead to a recommendation for further pre-determination work. Instead, it is advised that the archaeological potential of the site may be addressed by a limited programme of archaeological mitigation, to be secured by condition.

Civil Aviation Authority:

No comments received at the time of writing this report.

Manchester Airport:

Manchester Airport has no safeguarding objections to the proposal.

Canals and Rivers Trust:

Consider that there would be a substantial impact on both short and long views of the site from the Llangollen Canal. Should the application be approved, they request that additional screening is provided on the northern, eastern and western boundaries of the site.

Marbury and District Parish Council:

The Parish Council wish to object to the proposed Solar Park and the extended sub station.

The development would appear to be against both Local and National Planning Objectives for use of agricultural land. It would also be an intrusion into the open countryside in an area well used by walkers and canal users.

The development is of an industrial scale and character and would be totally alien to the appearance and character of its rural landscape setting. The change to the outlook of various properties that overlook the site would have a detrimental effect and be of a negative nature.

The potential for noise pollution and disturbance during the construction of the Solar Park and its joining to the sub station/national grid is very high. There is also a concern about probable light pollution during the construction and afterwards from security lights.

Reference has been made earlier to intrusion into Open Countryside and the possible loss of habitat etc. The Council's Principal Planning Officer, Emma Williamson, in a letter to Greenswitch Solutions, dated 11th April 2014, stated "...that the proposal is likely to have significant effects..." and also in the same letter "The development could be easily viewed from Frith Lane and from a number of Public Footpaths, particularly the footpath on the southern site boundary. While the site would benefit from an element of natural screening provided by existing trees and vegetation the potential for long distance views of the scheme is great given the scale of the scheme proposed and conditions of the site and surroundings."

The comments above are based on statements made by Parish Councillors at a meeting of Marbury and District Parish Council on Monday, 20th October 2014. Statements were based on consultations with a substantial number of residents by the Parish Councillors and noted by the Clerk.

Comments were also made that the suggestion that the Solar Park has a "life" of 25 years is possibly misleading in that it could be much longer! Many participants were not impressed by the timing or the format of the "Consultation Event" and the changes in the application during its development.

Wrenbury cum Frith Parish Council:

The Parish Council wishes to object to the proposed Solar Park and the extended sub station.

The development is against both Local and National Planning Objectives for use of agricultural land. Councillors consider that it is would be an unacceptable loss of agricultural land. It would also cause a detrimental loss of visual amenity; visible from many footpaths and the canal. The Parish Council urges the Borough Council to refuse this application.

REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and site notices posted.

At the time of report writing approximately 172 comments have been received relating to this application. 144 objections and 28 in support of the application. These are summarised below and the full documents can be accessed through the Council's website.

The objections express the following concerns:

- Adverse impact on the landscape
- Visual intrusion
- Visibility from many viewpoints
- Loss of agricultural land for food production
- Scale of the development
- Impact on public rights of way
- Impact on the setting of the Conservation Area
- Does not fulfil the definition of sustainable development in the NPPF
- Contrary to local and national policy
- Industrial development in the countryside
- Brownfield land should be used for this form of development
- Vandalism of the countryside
- No amount of screening will disguise it
- Adverse impact on ecology
- The site is miles from the National Grid and disruption during connection
- The Secretary of State for Environment says these '*large scale solar parks are a blight on the countryside*'
- Cumulative impact of these types of development
- Alternative sites not properly considered
- Impact on local tourism
- Highway safety
- Extensive disruption during development period
- Loss of outlook
- Light and noise pollution
- Aircraft could be adversely impacted
- Impact on local parachute club
- Inconsistencies in the application documentation
- Levels of subsidy are too generous
- Technology already outdated
- Questions about what will happen after 25 years
- Flood risk
- Property prices

The objectors also have the support of the local MP. In addition photomontages have been submitted depicting how the site may look when completed, these can also be viewed on the Council's website.

The comments in support include a petition with 67 signatories and make the following points:

- Valuable production of renewable energy
- Reduction in local energy bills
- Will help to prevent catastrophic climate change
- No significant or intrinsically negative impact on landscape character
- Will have little impact once completed

- Green energy should be supported
- Important for farmers to be able to diversify and access other income streams
- Good for local business
- Increase in biodiversity
- The land can still be used for grazing
- This is only a temporary use that will be beneficial
- The country needs a more diverse energy balance.

APPRAISAL:

The key issues to be considered in the determination of this application are set out below. They are the principle of the development, sustainability, renewable energy production, highways, amenity, heritage assets, landscape, trees, ecology, flood risk and archaeology.

Principle of Development

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 including economic, social and environmental.

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 consideration 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 for sustainable energy developments. As a result it is necessary to consider whether the development represents sustainable development and assess and if any other material considerations indicate if the development is acceptable.

Relevant Recent Appeal Decisions

This is one of a number of applications that may be forthcoming to Cheshire East with EIA Screening requests for 17 sites within the Southern part of the Borough.

Each application should be determined on its own merits but in this it is prudent to draw Members attention to the following 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 detractor 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 affect 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.
- Cornwall Council – Land at Burthy Farm, Summercourt, Newquay (Appeal Reference 221234) – 30th September 2014 – As part of this decision that was allowed the Inspector concluded that: *“The appeal site would not go wholly out of agricultural use if, as contended by the appellant, sheep grazed the grass that would grow between the arrays. Though there is no certainty that this would occur and no mechanism to ensure that it would. Nevertheless, even if this did not occur, the appeal proposal would not lead to any permanent loss of agricultural land irrespective of quality. The appeal proposal is for a period of 25 years and can be conditioned accordingly. Thereafter it would revert to agricultural use. While not necessarily a short period in human terms, it would not amount to a permanent loss.”*
- Cornwall Council – Land at Kellygreen Farm, St Tudy (Appeal Reference 2212325) – 23rd June 2014 – As part of this decision that was allowed the Inspector concluded that: *“It follows that there would be a loss of productive agricultural land for 25 years, but not a great deal of land that is ‘best and most versatile’.* Moreover the appellant has put forward positive proposals for limited grazing and other uses for the land around and between the panels that would have ecological benefits. *I conclude on this issue that the proposal would cause only limited conflict with the aims of paragraph 112 of the NPPF and very limited harm to agricultural production; and that this needs to be put in the overall balance.* In terms of landscape impact, the Inspector concluded that there would

be moderate adverse impact and the benefits would significantly outweigh the disadvantages.

As can be seen from these decisions, Inspectors are taking differing conclusions in terms of the permanent loss of the 'best and most versatile' agricultural land.

Sustainability

There are three dimensions to sustainable development as highlighted within the NPPF - economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

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

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

These roles should not be undertaken in isolation, because they are mutually dependent.

Environmental role

The site is a greenfield site and therefore not the first priority for development hence the potential conflict with countryside policies. The proposal is however for a large renewable energy scheme that would help the move towards a low carbon economy. The visual impact of the proposal on the landscape will inevitably be a negative consequence of such developments, particularly if using quality agricultural land.

Economic Role

The Framework includes a strong presumption in favour of economic growth.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

“support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings”

The economic benefits of the development need to be balanced against the impact upon the open countryside and the loss of agricultural land.

The NPPF makes it clear that:

“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”

Social Role

The proposal would contribute to the production of renewable energy which would be of benefit to the population by virtue of contributing to energy security.

Renewable Energy Production

The Planning Statement submitted in support of this application identifies that the development would *‘be a solar photovoltaic (PV) power plant of approximately 13.28 Mega Watt peak (MWp).’* It states that this would power *‘over 3,984 average sized homes per year’* and result in *‘a reduction of more than 6,640 tonnes of Carbon per year.’*

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.

Highways Implications

The Strategic Highways Manager (SHM) has assessed the application and concluded that the construction phase of the development is the only element of the proposal that would generate traffic to any significant degree. It would involve a construction period of 12 weeks with a maximum of 20 trips in any one week. The SHM therefore considers this to be non-material.

Should consent be granted, a Construction Management Plan should be secured by condition, in order to control vehicle movements and parking of construction/delivery vehicles.

Amenity

Given the isolated rural nature of the site there are relatively few residential properties in close proximity to the application site. There would be some disruption caused during the development of the site, however it is considered that this would be limited and any noise and disturbance could be controlled by condition.

There would be alteration to the outlook from a limited number of properties, however this is not considered to result in an oppressive or overbearing outlook and as such could not be sustained as a reason for refusal. As a result it is not considered that the proposed development would raise any significant issues relating to residential amenity.

Impact upon the setting of the Local Heritage Assets

There are no designated heritage assets within the site; however there are 3 Scheduled Monuments, 3 Grade I, 5 Grade II* Listed Buildings and 2 registered parks and Gardens within 5 kilometres of the site.

There may be potential for some distant views of the proposed solar park and some potential for reflection from the solar panels, however this is not considered to cause any substantial harm to the heritage assets. The proposal therefore is in compliance with paragraphs 132 and 133 of the NPPF.

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.

The application site is located in the south west of Cheshire East and covers an area of approximately 22.9 hectares of what is currently agricultural land, extending over a number of fields. The topography of the wider area is broadly undulating and this is true of the site itself, in which the land generally slopes down to the Llangollen Branch of the Shropshire Union Canal, although there are distinct variations in topography across the application site. The wider landscape surrounding the application site is agricultural and the Llangollen Branch of the Shropshire union canal is located just to the north of the site, Footpath 16 Norbury follows this route. The South Cheshire Way, a long distance footpath (Footpath 16 Marbury cum Quoisley) follows the southern boundary of the applications site.

As part of the Landscape and Visual Impact Assessment (LVIA) the baseline landscape character is identified at both the national and regional level. The application site lies within the National NCA 61 Shropshire, Cheshire and Staffordshire Plain. At the regional level the application site overlaps two character areas, Landscape Type 9: Estate Woodland and Mere, Cholmondeley Character Area (EWM1) and Landscape Character Type 7: East Lowland plain, Ravensmoor Character Area (ELP1). As the LVIA indicates, the application site has many of the characteristics of these character areas, especially the EWM1 Cholmondeley Character Area, in which the greater part of the site is located.

As part of the landscape assessment of impacts upon landscape character the area is identified as having a very tranquil and rural character. The landscape value and sensitivity are assessed as being medium. It is the Council's view that the landscape value and sensitivity are in fact greater than this. It is considered that the installation of solar panels, inverters and security fence, along with a CCTV installation would have a high magnitude of impact on the existing landscape character, and also that the new elements would be prominent and uncharacteristic of the landscape. It is also considered that the level of impacts during construction and also during operation would be substantially adverse for the site and surrounding area, although it would certainly reduce for the wider Landscape Character Types.

As part of the Visual Impact Assessment a number of photographs have been submitted which form the basis of the visual impact assessment. It is agreed that views from the public highway have been assessed as being of medium sensitivity and that views from Public Rights of Way would be of high sensitivity.

The submitted Landscape and Visual Impact assessment identifies that application site will have 2.4m high security fencing, CCTV posts and cameras, inverters and an array of solar panels covering much of the site; in what is acknowledged to be an area with a very tranquil and rural character. The landscape impact of the proposals during construction and also during operation will be substantially adverse for the site and surrounding area, It is considered that they will remain so. The visual impacts are identified as being substantially adverse for the south Cheshire Way that follows the southern boundary of the site and for Footpath 16 Norbury which follows the route of the Llangollen Branch of the Shropshire Union canal to the north of the application site, it also identifies that it will be adverse for most of the remaining Photoviews included in the assessment.

Because of adverse landscape and visual impacts identified it is considered that the proposals would be contrary to a number of saved policies contained in the Borough of Crewe and Nantwich Replacement Local Plan 2011, namely NE.2 Open Countryside, NE.11 River and Canal Corridors and NE.19 Renewable Energy.

Trees and Hedgerows

The Environmental Statement (ES) states at 2.1.4 “The existing hedgerows and hedgerow trees within the site will be retained where possible, and as a result the facility will be sub-divided into four sections which will approximately correspond”. At 3.6.1 the ES states “The site boundaries are well screened by existing trees and hedgerows, which will be retained as part of the proposal.” At 3.6.2 the ES states “trees and hedgerows will for the most be retained as detailed in Chapter 5.

A bund is proposed to screen the site and the applicant will need to show how the bund will be constructed without compromising soil structure within the Root Protection Areas and how they intend to protect the branches and main stems of the trees during the construction process, and for all the trees being retained. This can be controlled by condition.

In addition, the applicant will need to demonstrate that cable runs to the proposed solar arrays, will not impact on the trees to be retained within the site. This can also be controlled by condition.

Should the application be approved, there should be a suite of conditions relating to tree protection, retention, and pruning/felling specification and the submission of an arboricultural method statement, levels survey and service/drainage layout.

Public Rights of Way

The development has the potential to affect Public Footpath Marbury cum Quoisley No. 16, as recorded on the Definitive Map of Public Rights of Way.

Should consent be granted there should be no change to the surface of the right of way without consultation with the Public Rights of Way Unit.

Any alteration to the public footpath will require the prior consent of the Public Rights of Way Unit. If the development would permanently affect the right of way, then the developer must

apply for a diversion of the route under the Town and Country Planning Act 1990 (as amended).

If the development will temporarily affect the right of way then the developer must apply for a temporary closure of the route (preferably providing a suitable alternative route).

Ecology

The application has been assessed by the Council's Principal Nature Conservation Officer as the Environmental Assessment includes an Ecological Impact Assessment. He is satisfied that the development would not have any significant adverse impact on protected species and other species within and around the site, subject to the imposition of conditions. These conditions would include the following:

Conditions

In the event that planning consent is granted it is recommended that the following should be addressed through appropriate conditions:

- Safeguarding of breeding Birds
- Submission of proposals for creation enhancement of grassland habitats.
- Submission of method statement for the implementation and safeguarding of a 10m buffer zone adjacent to on site water course and boundary hedgerows and pond and for the retention and safeguarding of the arable field margin located adjacent to the proposed bund.
- Submission of updated badger survey immediately prior to commencement of construction.
- Submission of details to show the incorporation of 200mm gapes under security fence
- Implementation of Great Crested Newt reasonable avoidance measures.
- Submission of a habitat management plan to be implemented for the operational life of the solar park.

Flood Risk

The application is accompanied by a Flood Risk Assessment (FRA) and the Environment Agency have no objection subject to a condition requiring development to be carried out in accordance with the FRA. At the time of report writing, no response has been received from the Council's Flood Risk Manager.

The proposal is therefore considered to be acceptable in terms of flood risk. Should the Flood Risk Manager put forward a response an update will be provided to Members.

Agricultural Land

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 Statements submitted in support of the application states that the development would utilise the following areas of land;

- Grade 3a – 14.7 hectares – 63% of total site area
- Grade 3b – 8.6 hectares – 37% of total site area

Therefore the proposed development would result in the loss of 14.7 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 three of the appeals listed above where the solar panel were proposed for 25 year 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*.

Both the appeal decisions at Cornwall Council reached the conclusion that the developments would not result in the permanent loss of agricultural land, and that limited grazing and other uses could take place around and between the panels and the appeals were allowed.

A previous application at land north east of Combermere Abbey was before Strategic Planning Board in November (14/2247N). Members resolved to approve the application subject to a condition relating to the restoration of the land. It is considered that if Members resolve to approve this application, then a similar condition should be imposed.

Archaeology

This application is supported by an archaeological desk-based assessment, which has been prepared by Wardell Armstrong on behalf of the applicants. The report considers information held in the Cheshire Historic Environment Record, including reports on the results of other assessments and field investigations carried out in the vicinity of the application. It also describes the results of an examination of aerial photographs, historic mapping, and other readily-available secondary sources.

It concludes that there is some potential for archaeological deposits to be present across the site and particularly draws attention to a concentration of Romano-British metalwork, comprising coins, brooches and other objects, which may be indicative of a settlement or a dispersed hoard.

It is not considered, however, that this potential is significant enough to justify an archaeological objection to the development or to lead to a recommendation for further pre-determination work. Instead, it is recommended that the archaeological potential of the site may be addressed by a limited programme of archaeological mitigation, to be secured by condition. This should consist of a rapid, supervised metal detector survey across the development area, followed by targeted further work where any concentrations of material are identified. A report will also need to be produced.

Response to Objections

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report. These issues are summarised in the representations and include impacts on landscape, open countryside, agricultural land, scale, appearance, public rights of way, highway safety, amenity, ecology, tourism and pollution.

Planning Balance

The proposal is contrary to development plan policies NE.2 (Open Countryside) and NE.12 (Agricultural Land) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The most important material consideration is the NPPF which states at paragraph 98, that:

When determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- 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 also expect subsequent applications for commercial scale projects

outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

In this case, the benefits of the provision of a renewable energy source are considered to be significantly and demonstrably outweighed by the identified adverse impact on the landscape character of the site and its surroundings.

Balanced against the identified benefits must be the loss of an area agricultural land. Given the nature of recent appeal decisions, it is considered that it would be difficult to defend a reason for refusal relating to the loss of agricultural land.

Issues relating to amenity, ecology trees and highways can be addressed by conditions.

Having regard to sustainability, including environmental, economic and social sustainability, the benefits of the scheme by virtue of the provision of a source of renewable, low carbon energy, are outweighed by the harm to the landscape character of the area identified in the recommended reason for refusal.

On the basis of the above, it is considered that the application should be refused due to the adverse impact on the landscape character of the site and the surrounding area.

RECOMMENDATION

Refuse for the following reason:

1. The development of the proposed solar park would have a significant adverse impact on the landscape character of the site. In particular the views from the South Cheshire Way on the southern boundary of the site and Footpath 16 Norbury, following the route of the Llangollen Branch of the Shropshire Union canal to the north. This adverse impact significantly and demonstrably outweighs the benefits of the scheme in terms of renewable energy production. The proposal is therefore contrary to paragraph 98 of the NPPF and Policies NE.2, NE.11 and NE.19 of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Interim Principal Planning Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.

Should this application be the subject of an appeal, authority be delegated to the Principal Planning 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.

