

Report of the Head of Development Services

PART 3

Applications for which **REFUSAL** is recommended

3.1 SW/14/0525		Bobbing
APPLICATION PROPOSAL		
Construction of a Solar Farm, to include the installation of solar panels to generate electricity with transformer housings, DNO substation, security fencing and cameras, temporary access track, landscaping and other associated works.		
ADDRESS Land Off Cold Harbour Lane, Bobbing, Nr Sittingbourne, Kent, ME9 8NN		
RECOMMENDATION: REFUSE - SUBJECT TO: The views of the Council's Environmental Services Manager and KCC Archaeological Officer		
SUMMARY OF REASONS FOR REFUSAL		
The proposed solar farm would be sited on land that is graded as the best and most versatile agricultural land and its use as a solar farm would significantly limit its agricultural productive capacity value and versatility, contrary to the guidance in the National Planning Policy Framework.		
REASON FOR REFERRAL TO COMMITTEE		
Member interest in the application/Significant application		
WARD Hartlip, Newington & Upchurch	PARISH/TOWN COUNCIL Bobbing	APPLICANT Mr Nicholas Richardson AGENT Mrs Isobel Hollands
DECISION DUE DATE 29/07/14	PUBLICITY EXPIRY DATE 01/10/14	OFFICER SITE VISIT DATE 19/06/14

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site area totals 24.46 ha (60 acres) and is currently in arable agricultural use. The site can be divided into three sections – north, east and west and these sections are divided by track/footpath and hedgerows. The ground gently undulates, sloping from a ridge which cuts across the southern half of the site running north west to south east. The railway line to the south of the site is level with the site where a footpath crosses (ZR105) but quickly dips down below the application site as it travels north and then north west. The site is crossed by three public footpaths – ZR56, ZR54 and ZR105. The first crosses straight though the centre of the application site running northwest to southeast. ZR54 runs from the

northwest boundary to the western boundary and beyond. ZR105 currently cuts across the site from the railway line to the south to the north-west boundary.

1.02 The site is largely enclosed by mature hedgerow with sporadic trees. It is set away from surrounding roads and only accessible via footpaths or the private track adjacent to the railway. Two ponds lie directly adjacent to the boundary of the site.

1.03 The wider surrounding area is characterised by undulating landform with the land to the northwest rising and the land immediately to the west descending. The land to the east is largely level with the application site. Small areas of woodland and tree belts characterise the landscape and surrounding farm land is mainly arable. Wardwell Wood and Hawes Wood lie approximately 100m to the west and Rook Wood lies immediately to the east of the site. Harbex, a metal processing business lies immediately adjacent to the northwest boundary of the site.

1.04 Newington Conservation Area lies 450m to the west of the site. An Area of High Landscape Value lies to the north of the site approximately 150m from the boundary of the site.

1.05 The site – with the exception of a small area close to the eastern side – is Grade 2 agricultural land.

2.0 PROPOSAL

2.01 This application seeks planning permission for the development of a solar farm that would generate up to 11.33 MW of electricity for approximately 2,500 homes. The solar panels would be fixed at an angle of 15 degrees on ground mounted metal framework driven into the soil. The panels would be a maximum of 2.3 metres in height. Eight inverter cabinets would be distributed across the site. These would be 2.59m in height and would be finished in dark green. A substation would also be provided to the south of the site. This would be 3.945m in height and would be finished with brick elevations and a plastisol coated roof.

2.02 Security fencing would be provided around the site at a height of 2m. This would be deer fencing with timber posts. CCTV cameras/poles would be distributed around the boundaries of the site at a height of 3m. It is anticipated that sheep will graze beneath the solar panels.

2.03 The construction phase of the development is expected to last 3 months. Access to the site would be from Sheppey Way via a private access adjacent to Cherry Cottages (which is close to the junction in front of the Bobbing Apple PH, which in turn is close to the A249 trunk road). The track would follow the boundaries of the agricultural fields, necessitating a section of temporary surfacing, crossing Cold Harbour Lane and along the track running parallel with the railway line. A small section of hedgerow adjacent to Cold Harbour Lane would need to be removed (see the submitted 'Site Location Plan (1:2500) for details). Traffic would avoid passing through Bobbing Village. A temporary construction compound would be provided to the south of the site and this would revert to meadow-planting and a bee keeping area once construction is completed.

2.04 A permeable access track would be provided within the application site to allow access for vehicles whilst the solar farm is in operation.

2.05 The scheme includes areas for meadow planting and bee keeping. Hedgerows would be strengthened and new native hedgerows provided along the perimeter of the site. Bat and bird boxes would be provided around the perimeter. Public Rights of Way would be retained across the site with the diversion of one footpath so that it would pass around the perimeter of the site as opposed to across it. The application to Kent Country Council to divert this footpath is currently being considered.

2.06 The applicant submitted a request to the Council for a screening opinion as to whether this development required an Environmental Impact Assessment (EIA) (EIA/13/0012). It was concluded that this development would not have a significant impact on the environment and as such, an Environmental Statement was not required in support of this planning application. However, the applicant was advised to submit various reports to support their proposal, which have subsequently been received.

3.0 PLANNING CONSTRAINTS

Planning Category District

Potential Archaeological Importance

The land immediately to the west and north of the application site is designated as an Area of High Landscape Value.

4.0 POLICY AND OTHER CONSIDERATIONS

International, European and National Considerations

4.01 In 1997 the Kyoto Protocol set internationally-agreed and binding targets for the reduction in emissions of greenhouse gases up to 2012. The UK had a legally binding target to reduce the emissions of greenhouse gases by 12.5% below 1990 levels. The UK government then set a domestic goal to reduce emissions to 20% below the 1990 levels by 2020. The 2009 Copenhagen Accord, United Nations Climate Change Conference, Durban 2011 and the 2012 UN Climate Change Conference have also had an influence on the UK's approach to tackling climate change.

4.02 On a European level, Directive 2009/28/EC – the promotion of the use of energy from renewable sources is significant. Each Member State has a target for the use of renewable energy as a percentage of its overall energy consumption until 2020. In particular, this Directive commits the UK to a target of generating 15% of its total energy from renewable sources by 2020. In 2009 only 3% of the total UK energy consumption was met from renewable sources. Directive no. 406/2009/EC of the European Parliament set targets for the reduction in greenhouse gases.

4.03 At the national level, The 2008 UK Climate Change Bill sets an 80% target for reduction in greenhouse gas emissions by 2050 (based on 1990 levels). The UK Committee on Climate Change 2008, entitled 'Building a Low Carbon Economy', provides guidance in the form of recommendations in terms of meeting the 80% target set out in the Climate Change Bill, and also sets out five-year carbon budgets for the UK. The 2009 UK Renewable Energy Strategy (RES) provides a series of measures to meet the legally-binding target set in the aforementioned Renewable Energy Directive. The RES envisages that more than 30% of UK electricity should be generated from renewable sources. The UK Low Carbon Transition Plan (2009) white paper is also significant as is the National Renewables Energy Action Plan for the UK. This emphasises the need to drive major changes in the way energy is used and supplied.

4.04 Since the Coalition Government came to power (in 2010), various statements have been issued in respect of renewable energy. Climate change is recognised as an urgent threat and the need to respond to this is stressed. In 2011, the National Policy Statement EN1: Overarching National Policy Statement for Energy was approved by Parliament and this is to be a material consideration in the determination of planning applications for renewable energy. This guidance reiterates the targets set at a European and National level. Importantly, this states:

'Large scale development of renewables will help the UK to tackle climate change, ...It will also deliver up to half a million jobs by 2010 in the renewables sector.' (Paragraph 3.4.2).

4.05 The UK Renewable Energy Roadmap was also produced in 2011 by the Department of Energy and Climate Change and identifies eight technologies that have the greatest potential to help the UK meet the 2020 target. Solar farms are not included within these identified technologies but the Roadmap does highlight solar technology as having the potential to contribute towards this target. Dept of Energy and Climate Change: Gregory Barker Letter, dated 1st November 2013, titled "Solar Energy" Where he highlights, among other things, his focus of growth "to be firmly on domestic and commercial roof space and previously used land"

4.06 Despite this National target for the provision of renewable energy, at a County or Borough wide level no such targets exist.

National Planning Policy Framework 2012 (NPPF)

4.07 The NPPF was released with immediate effect, however, **Paragraph 214** states that "for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."

4.08 The 12 month period noted above has expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of

determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

4.09 The NPPF at **paragraph 14** sets out the presumption in favour of sustainable development. It outlines a set of core land-use planning principles (**Para 17**) which should underpin both plan-making and decision-taking including to,

support the transition to a low carbon future in a changing climate and encourage the use of renewable resources but to also:

- Take account of the different roles and character of different areas recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- Contribute to conserving and enhancing the natural environment and reducing pollution.
- Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework; and
- Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value.

4.10 Meeting the challenge of climate change, flooding and coastal change states that,

“Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions... and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.”

4.11 **Para 28** supports a strong rural economy and **Para 97** continues that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

“have a positive strategy to promote energy from renewable and low carbon sources; design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts; consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources; and identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.”

4.12 **Para 98** advises 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.”

4.13 Conserving and enhancing the natural environment states the planning system should contribute to and enhance the natural and local environment by:

“protecting and enhancing valued landscapes; and

minimising impacts on biodiversity and providing net gains in biodiversity where possible, contribution to the Government’s commitment to halt the overall decline in biodiversity.”

4.14 **Para 112** reads as follows:

“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”

4.15 **Para 118** advises that, when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles relevant to this development:

“if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

4.16 DCLG’s “Planning Practice Guidance for Renewable and Low Carbon Energy” (July 2013)

4.17 **Paras 013** relate to large scale ground mounted solar photovoltaic farms in particular advises Local Planning authorities to consider, amongst other things:

- encouraging the effective use of previously developed land, that poorer quality agricultural land is used in preference to higher quality land and if a proposal does involve greenfield land, that it allows for continued agricultural use 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 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.
- 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.

South East Plan

4.18 The South East Plan (SEP) has now been revoked and, as such, carries no weight. However Members may find it useful to note that the SEP set regional and sub-regional targets for production of renewable energy. The regional target for 2016 was 895 MW of installed capacity (or 8% of total regional electricity generation capacity) and 1130 MW (or 10%) in 2020. The sub-regional target for Kent was 111 MW in 2010 and 154 MW in 2016.

4.19 Kent County Council's 'Renewable Energy for Kent' report (2012) should also be noted.

Swale Borough Local Plan 2008

4.20 The following policies are relevant to this case: SP1 (sustainable development), SP2 (environment), SP3 (economy), SP5 (rural communities); SP6 (transport and utilities); E1 (general development criteria), E6 (rural restraint), E9 (landscape), E10 (trees and hedges), E11 (biodiversity), E16 (archaeological sites), E19 (design), RC1 (rural economy); (RC7 (rural lanes), and U3 (renewable energy).

4.21 Supplementary Planning Document 'Swale Landscape Character and Biodiversity Appraisal' (2011)

This document identifies the application site as being within the Iwade Arable Farmlands. The document identifies gentle undulating rural landscape. The medium and large scale arable fields provide uninhibited views across the open landscape in places. There are many fragmented woodlands and mature broken hedgerows. Narrow country lanes connect small villages and isolated cottages. Many intrusive pylons and power lines cross the landscape and are prominent on the skyline. Condition is poor and sensitivity to change of moderate. The SPD recommends to restore and create.

4.22 Consultation Draft Swale Borough Local Plan 2013:

Policy DM30 states that:

"Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

1. The site is allocated for development by the Local Plan;
2. There is no alternative site on land of a lower grade than 3a; or

3. Use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and
4. The development will not result in the remainder of the agricultural holding becoming not viable.”

Other guidance of material consideration

4.23 The Government has also produced a number of documents that are of relevance: UK Solar PV Strategy Part One: Roadmap to a Brighter Future (2013); UK Solar PV Strategy Part Two: Roadmap to a Brighter Future (2014); National Solar Centre Planning Guidance for Development of Large Scale Ground Mounted Solar PV Systems and; National Solar Centre National Planning Guidance – Biodiversity.

4.24 The first of these documents states: “...The key issue is ensuring that proposals to deploy solar PV take account of the circumstances of each project...Likewise, even plots of the highest grade agricultural land could include areas which are in themselves lower grade and could legitimately be used for solar PV deployment. There is increasing evidence that, if well planned and managed, there can be biodiversity benefits arising from the deployment of solar PV at large scale....”

4.25 The document entitled - National Solar Centre Planning Guidance for Development of Large Scale Ground Mounted Solar PV Systems identifies steps for developers to work through with regard to siting development on agricultural land. A flow chart is provided to aid the Local Planning Authority in understanding why a development is proposed on Best and Most Versatile land. If located on Grade 3a land developers should:

- “1. Provide an explanation of why the development needs to be located on the site and not on land of lesser agricultural classification within the area;
2. Provide information on the impact of the proposed development on the local area’s supply of farming within the same classification;
3. If the proposed development site makes up part of an existing farm, provide information on the viability of this farm to continue to function (as an agricultural unit) with the development in situ;
4. Consider the cumulative impact of the proposed development and other permitted large-scale solar PV development on the supply of agricultural land within the same classification across the local area.”

4.26 Swale Borough Council has approved its own guidance entitled: Renewable Energy Planning: Guidance Note 2: The Development of Large Scale (>50kW) Solar Arrays. This reiterates much of the guidance and policy above and provides the developer with details on all aspects of the solar farm developments.

4.27 Also of note is a speech by Greg Barker (MP) to the solar PV Industry on 25th April 2013 where he states:

“...for larger deployments, brownfield land should always be preferred.
...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...”

And a letter to Local Authorities on 22nd April 2014 in which he states:

“...the main message from the Strategy is that we are keen to **focus growth of solar PV in the UK on domestic and commercial roof space** and on previously-used land.

4.28 Also of relevance is the Natural England Technical Note TIN049 (2012) and Natural Environment White Paper The Natural Choice: Securing the Value of Nature (2011).

5.0 LOCAL REPRESENTATIONS

5.01 Six objections have been received from local residents. A summary of their comments is as follows:

- The solar farm would be unsightly and not as represented in the images provided with the planning application;
- The proposal would destroy beautiful landscape and peace;
- Green energy is desirable but not at any cost;
- The government reduction of investment has proven that alternative projects for renewable energy are more suitable;
- British produce is high in demand while solar panels can be easily placed on commercial roofs and scrubland of which there are plenty;
- Beautiful landscape plays an important part in mental health and wellbeing. The solar farm will provide a sterile and uninviting environment, destroying the landscape;
- Glare from the panels will affect High Oak Hill Farm during strong sun;
- The footpath diversion should not be permitted;
- The solar farm would create an enclosure around the footpaths encouraging crime and deterring walkers;
- Our power storage is not sufficient to cope with the extra demands of solar farms;
- Solar farm produce noise nuisance with constant low humming which damage health;
- Fires could spread quickly and could release toxic gases;
- Research suggests a link between radiation from the solar panels and cancer. A nearby resident is more susceptible to cancer due to a mutated gene;
- Disturbance during construction from general levels of noise and lorries passing beside Great Norwood Farm, Rook Lodge and Woodside;
- Views spoilt;
- Concern about the effects on wildlife;
- The nearby ancient woodland and listed buildings will be affected by the proposal;

- Who will repair the damage caused to roads?;
- Home grown food production is vital;
- The solar will add nothing to the local economy;
- If sheep are grazed on the land, this would increase traffic and;
- Disturbance to users of the footpath during construction;
- Noise from the inverters when the solar farm is in operation;
- Negative impact on property values;
- Views of countryside destroyed.

5.02 An additional representation has been received from CPRE Protect Kent. A summary of their comments is as follows:

They object to the proposal on the grounds that the development would be sited on best and most versatile land. They note that sheep grazing at solar farms has often proven to be unsuccessful. Although the Government has a target for renewable energy production, there is no local authority target. They note that Kent and the South East contain nearly all the grade 1 agricultural land in the UK. The nations targets are better met by the use of lower quality land found outside Kent in their view. They also object on the grounds that the solar farm would be harmful to the landscape character and appearance. They point out the landscape screening will only be effective outside of the late autumn, winter and early spring months. They consider that screening is not feasible for this site. Enclosing the footpaths would not be compatible with the recreation that the local population needs.

6.0 CONSULTATIONS

6.01 Newington Parish Council object to the proposal on the following ground:

- Harm to visual amenity - the site is next to an Area of High Landscape Value and within a green corridor;
- Loss of grade 2 agricultural land;
- Loss of outlook to the detriment of residential amenity;
- Construction and decommissioning problems;
- Policies favour development on brownfield land;
- Highway issues – traffic generation, access/emergency access, parking, safety during construction along narrow lanes;
- Environmental effects on surrounding farmland;
- Capacity of physical infrastructure to cope with the development of this site;
- Footpaths cross the site;
- Noise to adjacent residential properties;
- Adjacent to flood risk areas;
- The proposal should be subject to a full Environmental Impact Assessment;
- A nearby development for a waste disposal land fill was refused due to the impact on the Area of High Landscape Value;
- There is no regulator body overseeing this type of facility;
- Out of character with the surrounding;
- An adjacent resident provides details of her mental health issues and has concerns about the noise from the solar farm.

6.02 Bobbing Parish Council, within whose parish the development would be sited, object to the proposal on the same grounds and Newington Parish Council. They add the following:

- The national cycle route Sustrans runs through the site (it does not);
- Draws attention to Greg Barkers solar power roof strategy (set out above) and Swale's Core Strategy where it sets out the assets of the countryside.

6.03 Natural England has no objection to the proposal.

6.04 The Environment Agency seek the use of sustainable drainage and give advice of the storage of fuel, chemicals and oil, and the disposal of waste.

6.05 KCC Ecology initially requested additional information in respect of the avoidance measures for Great Crested Newts and also details of the on-going management of the wildflower meadows. In response to additional information, they note that Great Crested Newts were found to be present at the site. They have reviewed the precautionary mitigation strategy submitted and are satisfied that it will minimise the potential of Great Crested Newts being injured or killed by the proposal works. They recommend a condition to ensure that Reasonable Avoidance Measures are implemented and a condition to require the submission of further assessments prior to the decommissioning stage. Lastly they recommend a condition to require a detailed management and monitoring plan.

6.06 The Lower Medway Internal Drainage Board note that the site is outside of their district and they have no objection subject to a condition to ensure that off-site surface water run-off is not increased. Any details of SuDs drainage would be gratefully received.

6.07 The Health and Safety Executive note that a solar farm is not a risk in respect of the proximity of the site to the Major Hazard Pipeline.

6.08 Southern Water notes that SuDs drainage is to be used. Long-term maintenance of the SuDs will therefore require consideration.

6.09 The Climate Change Officer supports the application.

6.10 The KCC Public Rights of Way Officer notes that the diversion of public footpath ZR105 should be agreed before works are commenced on site. No furniture should be erected along the footpaths. Any planning consent given confers no consent to disturb or divert any public right of way without the express permission of the Highway Authority.

6.11 Kent Highway Services have no objection to the proposal. They note that the development would generate only the occasional visit once in operation. The greatest impact will be during the construction and decommissioning stages. The traffic numbers anticipated during these times would not be significant in their view. The access arrangements will ensure that there is no use of narrow country lanes. A condition should require a Construction Management Plan to ensure that traffic

movements are properly controlled. Other recommended conditions are – parking for construction vehicles, precautions against the deposit of mud on the road and the submission of a decommissioning plan.

6.12 Kent Fire & Rescue Service confirm that the means of access to the site is satisfactory.

6.13 The Council's Rural Planning Consultant makes the following comments on the proposal:

A large area of the solar farm falls within Grade 2 (very good quality) and a small area within Grade 3a (good quality). The solar farm proposal would not preclude the grazing of some sheep but would clearly limit the full potential productivity and flexibility of use of very good land for various food and non-food crops, over at least 25 years. Assuming that the development on agricultural land is regarded as "necessary" the NPPF requires the developer to seek the use of poorer quality land. Quite a number of solar farms have been proposed in Kent recently on poorer quality land, including in Swale and so it is not the case that poorer quality land cannot be found. Relying on the MAFF ALC grading maps is not sufficiently accurate for identifying poorer quality land. Later data – DEFRA's "MAGIC" survey maps demonstrate that where the ALC maps show Grade 1 land, in some cases, this is actually Grade 3a or 3b. There are large areas on the Isle of Sheppey which are near the 33kv grid that are Grade 3 or 4. Even if the applicant were to demonstrate that there was no other poorer quality land, there is no local target for renewable energy production. He does not agree with the applicant's assertion that the financial margins from grazing sheep would be comparable to arable margins. Best and most versatile land must be protected against development for four reasons – the range of crops that can be grown; the level of yield; the consistency of yield and the cost of obtaining it. Even with sheep farming allowed at the site, the site would still be taken out of "full" agricultural use by the solar farm because in practice agricultural use would be significantly limited thereby. In response to a later submission by the applicant in the form of a sequential assessment of potential poorer quality agricultural land, the Rural Consultant makes it clear that in his view, there is no basis for a sequential type assessment and that there should be no limit to the study area for such an assessment.

He further goes on to state that:

"the simple question posed is whether the site itself uses poorer quality (i.e. non-BMV) land in preference to higher quality land. If the answer to that is "no", (which is the case here) then it cannot be said that compliance with this particular criteria has been demonstrated.

...The Littles (Manor) Farm Inspector recognised (para 13) that there was no absolute embargo on the use of BMV land for solar farms, but the implication is that to succeed, some kind of exceptionally favourable case would need to be demonstrated on other grounds, in spite of conflict with the NPPF/NPPG (one example, perhaps, could be field/cropping rationalisation where only relatively small areas of BMV land would be affected as part of a wider scheme that otherwise utilises poorer quality land).

The reason given for the lack of any other soil surveys in this case (para 2.36) is that it would be unreasonable to and disproportionate to undertake such surveys across all sites in the study area. That is not an argument, however, for a solar energy provider (or landowner) undertaking no soils surveys of any other sites in a study area, whether in the same farm ownership, or indeed further afield in different ownership."

The Rural Consultant identifies land in Bobbing that is wrongly categorised in the applicant's sequential assessment as Grade 3a when it is actually Grade 3b.

"10 Assessment Areas, and a total of 40 sites identified as "developable", within those areas, have been referred to in the SAS desktop study. The assessment areas only represent a fraction of the agricultural land within the whole area of the 2km wide corridors derived from the grid accessibility requirement, and the 40 "developable" areas only represent some of the agricultural land in each assessment areas. The net result is to exclude most of the agricultural land in these corridors from consideration.

The SAS assumes that land of BMV quality can be developed for solar farms provided "that there are no potential alternative sites of a poorer agricultural quality considered deliverable" (para 2.51).

The SAS further concludes (para 3.24) "there are no potential alternative sites of any poorer agricultural quality land ... within Swale and Medway Local Authority Areas which have fewer environmental constraints than the Application Site or may not be technically possible due to access issues for HGV's....."

These statements seek to redefine the NPPG criterion, rather than reflecting the actual policy advice therein.

...Assuming it were appropriate to base this application on "deliverability" of other sites, the Council would need to judge the weight given to these factors, and their influence on any particular site, but it is surely wrong for the SAS to automatically afford "impact on BMV land" the least weight in every case. Again, that is not what the NPPG indicates.

I have referred previously to other sites at Bobbing/Iwade and on Sheppey where there is clear evidence of local land that has been found, by detailed survey, to be of poorer quality than the application site and where other schemes are already approved or under active consideration. The fact that those sites themselves can be seen as alternatives to the application site seems to have been ignored in the SAS.

Furthermore the studies in those areas suggest an extensive potential search area for other alternatives sites on which the applicants, or other solar power developers, might propose a scheme if so required.

Whilst it would be for the Council to assess all the relevant non-agricultural factors, it is difficult to regard SAS's pessimistic analysis of the lack of options in these areas to

be convincing, such that no alternative site could possibly be found across these large tracts of land, in addition to the sites on poorer land already approved or under active consideration."

6.14 The comments of the Council's Environmental Services Manager and KCC Archaeological Officer will be reported at the meeting.

7.0 BACKGROUND PAPERS AND PLANS

Planning Statement, Design and Access Statement; Ecological Appraisal; Amphibian & Reptile Precautionary Working Method Statement; Landscape and Visual Assessment; Drainage Strategy; Noise Impact Assessment; Flood Risk Assessment; Heritage Asset Assessment; Geophysical Survey; Traffic Impact Assessment; Glint and Glare Study; Statement of Community Engagement; Environmental Enhancement Plan; Agricultural Assessment; Soils Assessment and; Sequential Assessment.

8.0 APPRAISAL

The key issues here are:

- principle of development/agricultural land classification
- ecological impacts
- landscape / visual implications
- highway safety and convenience
- residential amenity
- cumulative impact

Principle of Development

8.01 As Members will have read above, there is an International and National drive towards the reduction in greenhouse gas emissions and the increase in the use of renewable energy as a way of achieving this in order to tackle climate change. This must be given significant weight when considering the current proposal against local and national policies of rural restraint. It should also be highlighted that the proposal is for a temporary period of 25 years (reduced from 35 as originally proposed). Whilst I acknowledge that this is a fairly long temporary period, in relative terms, it will not be a permanent development that will have impacts in perpetuity.

8.02 The proposal is for a major and significant development in the open countryside on agricultural land confirmed as Grade 2 (majority) and 3a (0.4ha). The NPPF states as mentioned above (para. 112) "*Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality*". This is supported by Policy DM30 of the consultation draft Swale Borough Local Plan 2013. Furthermore para 112 of the

NPPF continues that as the Planning Authority we should thus “*seek to use areas of poorer quality land in preference to that of higher quality*”.

8.03 The first test to be applied to solar farm developments such as this is to consider whether there is the opportunity for the development to be located on brownfield/previously development land. We must be satisfied that the use of greenfield land is *necessary*. The applicant has submitted a Sequential Assessment looking first at suitable brownfield land. It should be noted that the location of a solar farm is influenced greatly by the electricity distribution network and capacity of that network. This will therefore limit the search area to within a reasonable distance (1km) from a suitable connection point. The applicant has referred to the Office of National Statistics (ONS) with regards to available vacant land and their assessment of the proportion of this which is considered suitable for housing development. Where sites can potentially be developed for housing, they have been ruled out of the search as it is assumed that housing is the priority. The applicant has conducted a search for previously developed land within Swale and Medway and has included the potential for the use of commercial roof-space. The study identifies 150 ha of unused previously developed land within Swale and 870 ha of unused previously developed land within Medway. The submitted assessment assumes that the majority of the identified land within Medway is unlikely to be within the ‘grid corridors’ of the assessment. The assessment identifies only two suitable areas of previously developed land within Swale – ISTILL UK PLC, Rushenden Road and Land at Staplehurst Road. However, these are ruled out for various reasons, size of the site being one. They note that although the Government strongly emphasises the deployment of solar photovoltaic development on commercial roof-space, this is rarely a suitable viable option. I am of the view that there are some weaknesses in the arguments put forward by the developer in this case, not least the fact that they assume that much of the unused land within Medway is not within the ‘grid corridor’ and that they have not provided a site analysis for Medway. However, I do accept that options for solar development on previously developed land within Swale are limited and, on balance, I am satisfied that development on agricultural land has been shown to be necessary.

8.04 In the search for poorer quality agricultural land, the applicant acknowledges that reliance solely on Defra’s Agricultural Land Classification (ALC) maps is not sufficiently accurate to allow a fully assessment of an individual site and that soil sampling is necessary to establish the true agricultural grading of a site. However, they argue that to undertake soil sampling across all potential alternative sites within the study area would be unreasonable and disproportionate in terms of the potential scale, timescale, land ownership negotiations and cost. Therefore, they have only undertaken soil sampling at the application site. The applicant has ruled sites out if they have various constraints including SSSIs, AONBs and listed buildings/conservation areas. Physical constraints such as existing overshadowing features was also considered amongst other matters.

8.05 The applicant identifies 40 potential alternative sites within Swale and Medway. Reasons for ruling sites out include: site is smaller than application site; impact on visual amenity and landscape character; proximity to SSSI, highway implications, impact on ecology. The submitted assessment concludes:

'It is therefore concluded that there are no sites within the 2km Grid Buffer which offer a better option for solar development than the application site.

It is therefore concluded that there are no potential alternative sites of any poorer agricultural quality land or previously developed land within Swale and Medway Local Authority Areas which have fewer environmental constraints than the Application Site or may not be technically possible due to access issues or capacity of roof space.'

8.06 I have two key concerns with the conclusions reached. These are reflected in the comments from our Rural Planning Consultant (see above). Firstly, I do not consider that sites should be ruled out on the basis of a qualitative assessment that would ultimately be carried out by the Local Planning Authority. For example, ruling a site out based on the potential visual impact is pre-judging the LPA's views and it is quite possible that with suitable mitigation, the visual impact could be significantly reduced. Similarly, ruling a site out based on the impact on ecology does not consider that possibly mitigation measures that are often applied to development sites in order that harm to protected species is avoided. Indeed, this Council has approved solar farms on sites adjacent to the SSSI and I have concluded that the other solar farm application on this agenda will have some harm to visual amenities. On balance however, this other proposal is considered to be acceptable. This demonstrates a significant flaw in the submitted assessment. On this basis, I conclude that a number of the sites that the assessment identifies as being on poorer quality land could indeed be developed as a solar farm.

8.07 Secondly, I do not consider that the test applied in the concluding paragraphs of the assessment is correct. It is not correct to consider if the application site is a 'better option for a solar development'. The correct test is whether poorer quality agricultural land can be used in preference to higher quality land (para. 112 NPPF). It is my strong view that the submitted Sequential Assessment identifies poorer quality land that can be developed as a solar farm as opposed to demonstrating that there is no poorer quality land. I am also mindful of the advice provided by the Rural Planning Consultant - *"the simple question posed is whether the site itself uses poorer quality (i.e. non-BMV) land in preference to higher quality land. If the answer to that is "no", (which is the case here) then it cannot be said that compliance with this particular criteria has been demonstrated."* It can be argued therefore that the process of a Sequential Assessment is flawed from the outset.

8.08 I am not convinced that the continued use of the land for the grazing of sheep would maintain the important qualities of best and most versatile agricultural land. Such land is valued for the following reasons: the range of crops that can be grown, the level of yield, the consistency of yield, and the cost of obtaining it. By allowing the solar farm, these values would be compromised, even if sheep grazing was introduced. The applicant has submitted a report from Professor Buckwell (Agricultural Economics, Imperial College, ex Wye, London) in support of their application. He notes that the UK has no immediate threat to our food security. Shortage of agricultural land is not an obvious threat to UK (or EU) food security for the next quarter century in his view. He also considers that solar panels do not constitute a permanent removal of the land from agriculture and that a prolonged period of fallow for some of the arable area could be seen as a step to arrest this

decline and thus enhance food security. He also provides evidence of the economic assessment of solar PV developments. Our Rural Consultant is clear that he does not consider this submission to be of assistance to a planning assessment of the site. Importantly, he notes that the submission does not refer to the NPPF and that the Professor assumes that best and most versatile land is to be safeguarded for food security. The Rural Consultant notes that preservation of best and most versatile land is wider than that. Natural England's 2012 ALC guidance note refers to best and most versatile land as "the land which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals." Allowing the solar farm development would significantly limit the land's versatility and would arguably result in the land being downgraded for the lifetime of the solar farm. I have considered the economic arguments put forward by the applicant in respect of sheep grazing being as productive as arable crops. Our Rural Consultant disputes this claim but moreover, even if this were the case, the versatility of the land would still be compromised and therefore, I consider that there would be harm to sustainable socio-economic growth/stability.

8.09 The benefits to biodiversity are of consideration here as the National guidance requires enhancements in this respect. I am of the view that the applicant has achieved a good level of biodiversity enhancements and this does weigh in favour of the development. However, this does not outweigh the significant harm identified above, in my view.

8.10 On balance, I do not consider that the renewable energy benefits of the scheme would outweigh the harm to the supply of best and most versatile land.

Visual Impact/landscape character

8.10 The solar panels, inverters, CCTV, fencing and substation will all undoubtedly impact on the character and appearance of the land and would be harmful in my view. However, the applicant has sought to address this harm by way of restoring existing hedgerows, creating new hedgerows and planting tree clusters at strategic points. The visual impact would be mostly experienced by the upper floor windows within nearby residential properties and those using the public footpaths crossing the site. The closest and most affected residential properties are those on Belnor Avenue, Blackberry Farm and High Oak Hill Farm. The submitted Landscape and Visual Impact Assessment concludes that views of the solar farm from these properties would be partial due to intervening vegetation. I am of the view that with the mitigation proposed, there would be no significant harm on the surrounding residential properties.

8.11 With regards to the impact on public footpaths. There will undoubtedly be significant change to the experience of walkers travelling along these paths. However, the applicant has given careful thought to this and has left a gap of 30 metres between the fences/solar panel where footpath ZR56 crosses the site. In addition, new hedgerow would be planted in front of the fence. This will ensure that a pedestrian walking along this footpath would not feel enclosed on both sides. For footpath ZR105 (which is to be diverted), there would be a gap of 15 metres between the edge of the field and the fence/solar panels. Again, a hedgerow would be

planted in front of the fence and I therefore consider that footpath would not feel enclosed. There would be a small section of footpaths ZR105 and ZR54 that would not benefit from hedgerow screening of the solar panels. However, I do not consider that this is objectionable in itself as the impact would only be on short sections and to some people solar panels are not offensive to look at. Moreover, additional hedgerows could be added if necessary. The experience of the walker will dramatically change as a result of this scheme. However, I do not consider that countryside walks along footpaths adjacent to long stretches of hedgerow would be uncommon within this landscape. On balance, I do not consider that there would be significant harm in this case.

8.12 The Landscape and Visual Impact Assessment concludes that views from surrounding roads would be filtered and limited due to existing and proposed vegetation. Views from railway line would also be limited and I have considered the fact that the railway line drops lower than the application site for some of its length.

8.13 The harm that I have identified would in my view, be addressed to a certain extent by the landscaping proposed. However, I am of the view that there would still be some harm to this rural landscape because the solar farm would still be visible from upper floor windows within residential properties close by, footpaths crossing the site and vantage points further afield. I also give consideration to the fact that the hedgerow would offer less by way of screening in the winter months. However, I have not identified *significant* harm here and I must take into account the fact that this site does not lie within an Area of High Landscape Value, AONB or Special Landscape Area. I must also consider the benefits that this development will bring in the form of renewable energy sufficient to meet the electricity needs of approximately 2,500 homes and the biodiversity enhancements detailed above. I also give weight to the fact that the land will be restored after 25 years and so in this respect, the visual impact would not be permanent. Therefore, I am of the view that the visual and landscape harm would be outweighed by the benefits as noted.

Residential Amenity

8.14 The applicant has submitted a noise survey with the application. This considers the noise impact of the proposal on the closest neighbouring property – High Oak Hill Farm which is approximately 100m from the northwest boundary of the site. The noise produced from the 8 inverters and substation has been considered. The total operation noise levels from all plant as experienced at High Oak Hill Farm are predicted to be 18 dB(A). This is 27 dB(A) below the WHO guideline noise level value for “sleep disturbance, window open” of 45 dB. The noise assessment concludes that the operation noise from the solar park would not result in any discernible adverse effects on nearby residential dwellings. I have no reason to question this conclusion and therefore consider that there would be no harm to residential amenities at the operational phase of the development.

8.15 I acknowledge that there may be some disturbance to local residents during construction, particularly to the residents of Cherry Cottages, Sheppey Way as the construction traffic would pass directly beside their properties. These residents have been consulted but have not objected. Construction traffic would also pass beside Rook Lodge but this property is set away from the access track and is

shielded by tall trees. Whilst there would be some disturbance to these residences in particular during construction, and perhaps to a lesser extent High Oak Hill Farm (close to the northern boundary to the site but away from the route of the construction traffic), I do not consider that there would be significant harm. Working hours proposed are Monday to Saturday 08:00 to 18:00 and on Sunday between 08:00 and 13:00. There is a balance to be struck between allowing hours of working so that disturbance is limited, whilst ensuring that they are not so restrictive that the length of the construction period is prolonged. With this in mind, I consider that the hours proposed would be acceptable. I am also mindful that the construction period would be for a limited period only.

8.16 The comments of the Environmental Services Manager will be reported at the meeting.

Highways

8.17 Kent Highway Services have no objection to the proposal. The submitted Transport Statement notes that the access to the site would be almost directly from the A249, to the west of the Bobbing turn off and adjacent to Cherry Cottages, Sheppey Way. This route would ensure that traffic avoids passing through Bobbing Village and avoids the use of narrow country lanes. The temporary access would make use of existing tracks with resurfacing provided where necessary. A section of temporary roadway would be provided across the existing arable field parallel with Cold Harbour Lane. Where traffic would cross Cold Harbour Lane, a banksman would be used.

8.18 The Transport Statement estimates that the construction period would be twelve weeks. The applicant notes that there could be problems with congestion at school drop-off/pick-up times in respect of Bobbing Primary School. However, they would seek to avoid these peak times. Traffic would be controlled through a Construction Management Plan which would be the subject of a planning condition. The Transport Statement states that HGV deliveries would be approximately 7 per day with a total of 230 HGV deliveries spread over the 12 week construction period. The statement also notes that construction staff would be brought to the site using minibuses. It notes that there would be a total of 10 minibuses/vans/buses on site. During the operational phase, the solar farm would attract 10-20 vehicles per year. I am of the view that the proposal, both during construction and operational phases, would result in no significant impact on the highway. I therefore consider that there would be no harm to highway safety/amenity.

8.19 The application is accompanied by a Glint and Glare study. This notes that solar panels are dark in colour and absorb much of the sunlight. The submitted assessment found that the users of the footpaths, railway line, and the immediately dwellings would experience only negligible affect from glint and glare and the potential for this to happen would be limited. I therefore find no harm as a consequence of glint and glare.

8.20 With regards to the arrangements for footpaths to be put in place during construction, security fencing and landscape screening at the solar park will be set up at the start of the construction period. Specific management measures will be

undertaken where footpath ZR105 crosses the access track and where footpath ZR56 crosses the internal access track. These management measures will seek to provide a designated crossing location and warning signs for both pedestrians and construction vehicles.

Ecological Impacts

8.21 The submitted ecological assessment identifies the potential for Great Crested Newts (GCN) at the site, particularly in the ponds in and around the site. The ecological assessment recommends that a precautionary approach is taken to the method of working during construction. There is potential for badgers around the perimeter of the site but as this will not be affected by the proposal, no further measures are recommended. A check for the presence of mammal burrows is though recommended prior to works. The assessment identifies that the site has the potential to support bird species. The works are recommended to be undertaken outside of the bird breeding season (March-August inclusive). The assessment appends correspondence from Natural England that notes that the site is unlikely for birds to be using this site as functional land and they do not ask for wintering bird surveys. KCC Ecology has accepted the details submitted with the application. I therefore consider that there would be no harm to ecology/biodiversity at the site.

8.22 The biodiversity enhancements put forwards by the applicant and as set out above, would be sufficient in my view. In addition, the applicant intends to erect educational boards for walkers which will give details of wildlife and historical information about the site.

8.23 Owing to the distance of this site from the SSSI and SPA (1km), I do not consider that there would be any detriment to the special features of these designated areas.

Cumulative impacts

8.24 This proposal has been submitted at the same time as the solar farm proposal at Orchard Farm (also on this agenda and with reference 14/502072 and sited approximately 1 km to the north) and so the cumulative impacts of both scheme in terms of the visual/landscape impact and also the traffic impact are important to consider. I also asked the applicant to consider the cumulative impacts of these two solar farms with a potential solar farm at Stickfast Lane (approx. 1.3km to the east), although no formal planning application has been submitted for this proposal to date.

8.25 The submitted Landscape and Visual Assessment identifies some areas where all three solar farms would be visible. The assessment concludes that with the hedgerow and trees screening proposed, for all three solar farms, the impact on the landscape would be reduced. The Iwade Arable Farmlands character area covers all three solar farm sites. This has a moderate sensitivity to change and the assessment concludes that the cumulative magnitude of impact would be medium resulting in minor adverse effects. In terms of visual impact from all three solar farms, the residents of Belnor Avenue, Bobbing will be likely to experience a significant cumulative impact as a result of being able to see all three solar farms.

There are four properties along this road and whilst there may well be a significant impact initially, once the landscaping has matured, I consider that the harm will be sufficiently reduced and on balance, I consider that the benefits of this scheme would outweigh the harm to these four properties.

8.26 In terms of the transport impact, the only concern would be if two or all three solar farms were to be constructed at the same time. When considering this matter, one must appreciate that the Cold Harbour Lane solar farm would be likely to use a different route to that of the Stickfast Lane and Orchard Farm sites. Cumulatively, the number of vehicles generated by the three solar farms being constructed at the same time would equate to approximately 216 additional vehicle movements per day which I do not consider to be significant when spread throughout the day. Kent Highway Services have no objection to the proposal and I consider that the likelihood of all three solar farms being constructed at the same time is low given the fact that the Stickfast Lane proposal has not been submitted yet. As such, I do not consider that unacceptable cumulative harm would arise as a consequence of the traffic generated by the three solar farms.

8.27 I am mindful of the evidence submitted with the Orchard Farm application about lack of grid capacity for further solar farms in the area (see para. 8.23 of the committee report). Here I concluded that the capacity for further solar parks in the borough is significantly limited.

Other matters

8.28 The site has archaeological potential, and the application is accompanied by a Historic Environmental Desk-Based Assessment. This concludes that the setting of designated heritage assets is not affected by the proposal due to the distances between them. The closest listed building is 340m to the north of the site at Norwood Farm. The Conservation areas at Newington are noted but the nearest one of these – Newington Church Conservation Area is some 400m to the south west of the site and would be unaffected by the proposal. However, it is acknowledged that there would be some inter-visibility between some heritage assets and the solar farm. This would not however be harmful to their setting. Their settings would be preserved in my view. With regards to archaeological potential, the site is known as having a WW1 “stop line” across it. This comprised trenches and machine gun emplacements. Underground cabling is also thought to have been present within the boundary. A programme of geophysical surveys to identify any archaeological remains was carried out and the results have been submitted. I am awaiting the comments of the KCC Archaeological Officer and will report his findings at the meeting.

8.29 The site does not fall within flood risk zones 2 or 3 and as such flood risk is not considered to be an issue. The Environment Agency raises no objection. The submitted Flood Risk Assessment concludes that future users of the site would remain safe throughout the lifetime of the proposed development and subject to drainage arrangements or swales being implemented and maintained, the development will not increase flood risk elsewhere and will reduce flood risk overall.

10.0 CONCLUSION

10.01 Having considered the comments from consultees, local residents and the parish council and the relevant planning policies, I am of the view that the development should be refused on the grounds of the harm to sustainable socio-economic growth/stability as a consequence of development on best and most versatile land, this being the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non-food crops for future generations. Furthermore I am of the opinion that this harm would not be outweighed by the benefits of renewable energy production or the benefits to biodiversity. I have also given careful consideration to the impact on landscape character and visual amenities and am of the view that although there would be some harm, that this would not be significant and I therefore consider that the benefits of renewable energy would outweigh the harm. The impact on residential amenities would be confined to the construction phase and this would be limited to 12 weeks within the hours specified. I therefore consider that there would be no significant harm in this case. The impact on highway safety/amenity would also be mainly confined to the construction phase. The route specified for construction traffic would avoid passing through Bobbing Village and the traffic generated would not be significant in terms of its addition to current traffic levels. The impact on ecology/biodiversity, archaeology and drainage would be appropriately mitigated in my view. I do not consider that the cumulative impact would be significant.

11.0 RECOMMENDATION – REFUSE, Subject to the comments of Council's Environmental Services Manager and KCC Archaeological Officer.

REFUSE for the following reasons:

1. The proposal would constitute significant development of best and most versatile agricultural land (very largely Grade 2 and a small area of Grade 3a). The applicant has failed to demonstrate that poorer quality land has been used in preference to higher quality land, whereas, having regard to the economic and other benefits of the best and most versatile agricultural land, poorer quality land should be used for significant and necessary development of agricultural land, in preference to land of higher quality. The agricultural potential of the land in terms of productivity and flexibility of cropping, would be unacceptably reduced. The proposal therefore would have significant harm to sustaining the social, economic and environmental benefits of the best and most versatile land, being the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non-food crops for future generations. This harm would not be outweighed by the benefits of renewable energy production or the benefits to biodiversity. This would be contrary to paragraphs 112 of the NPPF and paragraph 013 NPPG: Renewable and Low Carbon Energy.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to

development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.