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CDC ref: 22/01682/F

Cherwell District Council- Planning Department
Development Management

FOA Rebekah Morgan
By email: Planning@cherwell-dc.gov.uk

15 August 2023

Dear Rebekah

22/01682/F - Development of a ground mounted solar farm incorporating the installation of solar PV panels, associated infrastructure and access, as well as landscape planting and designated ecological enhancement areas
At: Land North of Manor Farm, Noke

We write on behalf of our client, Heidi Smith, to object to the above planning application for the provision of a new solar farm on this highly sensitive and visible site within the Oxford Green Belt. Our client lives on and owns the land immediately to the North of the proposed site and therefore knows the area, its fauna and flora very well.

It is acknowledged that significant progress needs to be made in providing renewable energy in the Country to make step change in decarbonisation and help to address climate change. However, each proposal for renewable energy needs to be assessed on its own merits and an appropriate balance struck between facilitating low carbon energy and protecting the environment in other respects. Having reviewed the submitted documentation we raise the following concerns and objections to the proposal.

Green Belt

The whole of the application site (and surrounding land) is located in the Oxford Green Belt. The NPPF advises that the government attaches great importance to Green Belts and advises that harm to the Green Belt should not be approved except in very special circumstances. It goes on to say that very special circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations. Paragraph 146 goes on to note that substantial weight should be given to any harm to the Green Belt. The essential characteristics of a Green Belt are its openness and its permanence.

It is common ground that the proposed development would be 'inappropriate development' in the Green Belt which is by definition harmful to the Green Belt and needs to be given substantial weight against the proposal in the planning balance. However, there are also a number of further areas where the proposal would lead to harm to the Green Belt.

The proposal would be harmful to the openness of the Green Belt. The concept of openness is capable of having both a visual and spatial component and is closely related to the absence of built development. In this respect the proposed solar farm would have a significant adverse impact on the openness of the Green Belt. From a spatial dimension the proposed provision of solar panels, transformers, fences, storage cabins and other associated infrastructure, would spread over a very significant area of the site. The solar panels themselves will be 2.8 metres high and be substantial features in the site. They would replace an existing historic agricultural field pattern and whilst the applicant may argue they are relatively low-level features, the extensive spread of the solar modules and panels across the site would lead to very significant spatial harm to the Green Belt, in an area where there has been very little development historically or in modern times.

In respect of the visual component of openness the proposal would be widely and highly visible in both the immediate context of the site and the wider landscape. The height, appearance and geometric pattern of the proposed solar farm would be highly noticeable features in the Green Belt and have a significant urbanising visual impact on the openness of the Green Belt. There would be development on the site where there is currently none which would fundamentally urbanise the site. In the immediate context of the site there are public rights of way running through the site and also to the north of the site with significant adverse impacts upon openness viewed from these rights of way.

The proposal would also result in significant adverse impacts to the wider views from which the general openness of the Green Belt can be appreciated. This includes views from the higher land to the south, such as those from the edge of Beckley, from where extensive views across the site and Otmoor are available. As you will know the application site occupies part of a very low-lying area but that area is overlooked by high ground, part of which is beyond the district and lies in South Oxfordshire. However, because the whole area is in the Green Belt this will clearly diminish the particular character of this area.

There are also clear and extensive views from the public right of way to the South West of the site (route 260/6/10). These views are highly rural in nature with few visual detractors, as can be seen in the applicant's Landscape and Visual Assessment, and the introduction of a large solar farm with all its paraphernalia across a substantial site area would be harmful to the openness of this part of the Green Belt.

Turning to the purposes of the Green Belt, the proposal would run contrary to the purpose of the Green Belt that seeks to safeguard the countryside from encroachment. The large size of the proposal would lead to significant encroachment into the Green Belt by replacing a number of undeveloped and attractive agricultural fields with solar modules and other related infrastructure.

Another purpose of the Green Belt is to preserve the setting and special character of historic towns. In this case, whilst Oxford is located some distance from the site, the wider countryside in the Green Belt does help to preserve the setting of the historic town and the development of the site would be harmful to this, albeit limited. Oxford is appreciated from the high ground at Beckley, Elsfield and Woodeaton and the scheme will be read in the context of the countryside belt around the historic city.

Paragraph 151 of the NPPF clarifies that many renewable energy projects in the Green Belt will comprise inappropriate development. It goes on to state that in such cases developers will need to demonstrate very special circumstances if projects are to proceed and that very special circumstances *may include* the wider environmental benefits associated with increased production of energy from renewable sources. In our opinion a clear reading of this paragraph indicates that the wider environmental benefits of renewable energy can be part of a very special circumstances case, however it would only be one element of it. It is not indicating that such benefits alone will constitute very special circumstances or will always override the Green Belt harm.

Overall there is clearly substantial and demonstrable harm to the Green Belt in terms of being inappropriate development, harm to the openness, harm through encroachment and harm to the historic setting of Oxford. National policy directs these need to be given substantial weight in considering development proposals and that permission should not be granted except in very special circumstances.

Landscape and visual impacts

The application is accompanied by the Landscape and Visual Impact Assessment. This has been considered by the Council's Landscape Architect who has objected to the proposal. We wholly endorse the views of the Council's specialist and consider this is not a suitable location for a solar farm. The proposal runs contrary to the NPPF which seeks to protect the intrinsic character and beauty of the countryside. It would also be contrary to Policy ESD13 and ESD5 of the Cherwell Local Plan which seek to ensure development is appropriate in landscape and visual terms.

The proposal would be harmful to the landscape character of the site in that the wider landscape is characterised by agricultural land with sporadic small villages. The large scale and nature of the proposal would be incongruous in this unspoilt rural landscape and would be at odds with the wider undeveloped character of the area.

In terms of visual impacts, the proposal would have significant adverse impacts on the public right of way which runs through the site and to the northern boundary of the site. The public right of way which runs through the site (309/1/10) currently enjoys many open views across the open and flat land with views of the rising land around Otmoor. These are extensive views and add to the enjoyment of the users of the right of way. The proposal would lead to the loss of many of these views. The Oxfordshire Way, which is a supported route to take in the best of Oxfordshire runs nearby. This creates greater exposure to leisure walkers. Viewpoint 5 supports a case that the site cannot be screened and it will remain obtrusive. There is something of a lack of clarity in the images in the LVIA which serves in our view to downplay the visual prominence of solar on this site.

For many years after the development of the solar farm views from the public rights of way would be of the fences, solar modules and other infrastructure relating to the development for a significant length. Once the proposed landscape mitigation matures, the open views of the extensive land would be largely replaced by channelled views with hedgerows either side of the public right of way which would adversely impact on enjoyment of these routes.

The visual impacts from the land and public right of way to the South West and also the high ground to the South of the site around Beckley would be highly detrimental. Given the topography of the area, with the solar farm on low land, surrounded by higher land extensive views over the whole of the solar farm would be experienced from the south

of the site from areas including the edge of Beckley. The extent and scale of farm would be very apparent from these areas, dwarfing the other buildings and features which make up the landscape. In our opinion there would be significant adverse impacts which could not be mitigated and would conflict with local and national planning policy protecting the landscape and quality of area.

The applicant has drawn parallels with other solar farms which have been allowed in the Green Belt and it is clear from recent decisions that some solar schemes are acceptable in the Green Belt. However, the landscape and visual impacts of each scheme will differ and each needs to be assessed on their own merits. Many applications are well contained by vegetation and/or landform and do not have sensitive public rights of way crossing them. That is clearly not the case for this site which is highly visible in the surrounding landscape and has public rights of way running through it. Otmoor has a special place in people's hearts. It is a valued landscape which NPPF 174 says should be protected.

Impact on ecology

The application site is located in an extremely sensitive ecological area being located adjacent to RSPB Otmoor which is a Local Wildlife Site and is important habitat for lowland breeding wader birds and large numbers of wintering wildfowl and waders.

It is noted that a number of ecological organisations have been consulted including Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) and the RSPB, along with the Council's Ecologist. BBOWT have objected to the proposal and the Council's Ecologist has raised concerns which could be seen to amount to an objection. Whilst the RSPB have not objected to the proposal subject to various conditions, it is highly questionable whether these conditions would be achievable or enforceable. This includes measures to reduce polarised light which the applicant has not demonstrated is achievable or what impact it may have on the performance of the solar panels.

Both BBOWT and the Council ecologist raise numerous concerns regarding the location of the site immediately adjacent to important bird habitat. They indicate there is currently a lack of evidence to demonstrate what the potential impact of solar farms on wetland and migrating bird (and aquatic invertebrates) would be. They raise concerns that birds may mistake the panels for water (resulting in strike) or otherwise become confused or deterred by their presence. The Council's Ecologist goes as far to say: *however, it is difficult to support the proposed location and to view it with anything but concern. From an ecological point of view there would seem to be few places in the district as inappropriate for siting a solar farm as here, considering the value of the habitats it is next to.*

Given this the site would fundamentally not appear to be suitable for such a development based on the uncertainty of these impacts and the sensitivity of the site given its proximity to important bird habitat.

Were the Council to consider supporting the application we note it is unclear whether all the land required to undertake the proposed ecological mitigation is available for the applicant to use. Parts of the land appear to be outside of the application's red line so it is unclear how the initial mitigation and management of these areas would be secured by the Council in a manner that is enforceable and deliverable, at the outset and for the future.

For example, some of the mitigation refers to enhancements to islands on the River Ray which are outside the application site. Other mitigation, such as the skylark mitigation

will include the use of the large arable site located to the west of the site (also outside the red line) being farmed in a certain manner so as to increase its suitability for skylarks, including skylark plots within the arable use. It is not considered that a Grampian style condition would be suitable for the ongoing management of an area in perpetuity as this would not appear to meet the tests of enforceability set out in the PPG. Ongoing management would be needed given the lifespan of the solar farm.

The proposal would therefore conflict with Policy ESD10 which seeks to ensure new development protects enhance the natural environment and also advice in the NPPF. This cannot be overcome in our view by application of conditions nor by planning obligations. The special facets of Otmoor for nature have been overlooked.

Impact on heritage assets

The proposed development would impact on the setting of both Logg Farmhouse, Oddington, and Manor Farmhouse, Noke and their associated historic outbuildings. All of these are Grade II listed buildings. It will also impact on the setting of the Grade II* Church of St Andrew in Oddington, and St Giles, Noke too. The NPPF requires great weight to be attached to the conservation of heritage assets and any harm should require clear and convincing justification and be weighed against the public benefits of a scheme.

In this case the application might not lead to any direct impacts on the listed buildings, however there would be an impact on their setting. The agricultural setting of the Manor Farmhouse and outbuildings is deeply important to the significance of these heritage assets demonstrating the historical functional relationship of the buildings with the surrounding farmland having been under the same ownership and occupation since the mid-19th century. There are also some views of the site from the buildings albeit many views from ground floor are obscured by vegetation. The replacement of the agricultural field with a solar farm of this nature and in this location will lead to some degree of harm to the setting of these buildings through the loss of agricultural setting to the building. This harm carries great weight against the proposal (NPPF para 199), and this harm cannot be mitigated. The setting of Noke as a whole is of an agricultural hamlet which has not seen much development even in modern times. The otherwise unspoilt landscape setting renders the significance of the proposed change greater, in this case.

It should also be noted again that the Green Belt around Oxford is so designated to protect the setting of the historic town – which is a heritage asset in itself. The PPG advises that decision makers take great care to ensure that heritage assets – and in particular their setting – are protected from harm caused by large scale solar. It is clear in advising that “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” (Paragraph: 013 Reference ID: 5-013-20150327).

Other points

It is noted that parts of the site lie within areas of flooding however to date the applicant has still not provided information to the satisfaction of the Environment Agency regarding the extent of the compensatory storage in flood zone 3 or the details of the perimeter fencing to ensure it is permeable to flood risk. Without such information the proposal cannot be supported on flood risk grounds. Providing a scheme in an area of flood risk seems itself risky. The scheme would not pass the sequential test when there is other land available which is not liable to flooding.

Furthermore, the proposed site is sited on greenfield agricultural land. The PPG is clear that local planning authorities need to carefully 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 site is not poorer quality land, it has not been shown how continued agricultural use will be achieved and there is a negative impact on biodiversity (see points raised by the RSPB amongst others).

Benefits and applicant's case in favour of the development

The proposal will no doubt lead to a significant benefit in terms of renewable energy generation and the carbon dioxide reductions. The applicant claims that the proposal will generate energy equivalent to powering around 7,000 homes annually and will help save 12,000 tonnes of carbon dioxide emission per year. We would ask that the Council explores how these figures are arrived at and justified. The benefit clearly exceeds the local demand for electricity, and to that extent the scheme seems oversized.

The applicant also states that a community benefit payment will be set up for 20 years to benefit the community of Noke and argues this should be given significant weight. However, it is not clear how this benefit flows from the development or how it would meet the relevant CIL tests for planning obligations. We therefore consider it cannot be given any weight in the planning balance.

The net increase in biodiversity is noted and weighs in favour of the proposal, however this must be considered in the context of the other ecological concerns outlined above- not least the ability to ensure such gains would really occur and then be maintained and be enforced if not.

Additionally we understand that the University of Oxford has done recent survey work on adjacent Loggs Farm (the owners of which currently share farm Manor Farm) which identifies significant failings in the currently submitted biodiversity calculations, notably the very low baseline values given to 'all' agricultural land are not justified.

We also note that the applicant seeks to argue that grid connection and availability is extremely limited and appears to imply that this is one of the only sites that would have capacity to come forward for a solar farm in Cherwell District Council. We do not have the technical knowledge to challenge these arguments and would strongly advise the Council to seek separate specialist advice on this to have an impartial view. Since the application has been lodged with the Council, we are aware of at least 2 solar farm developments in Cherwell that have come into the public domain. One to the north of Hanwell and another near Stratton Audley. This would appear to undermine the applicant's arguments in this respect, and it is considered these should be considered by the Council with specialist input. It is also important to note that there are no local requirements to meet in respect of renewable energy and whilst every Council should try to deliver as much low carbon energy as possible, such challenges need to be looked at on a national and global scale. This means that some areas will be able to deliver more renewable energy than others and it needs to be considered on a national basis.

We would also question whether the development may give rise to direct off-site works which should be considered as part of this proposal. For instance, although electricity companies may have permitted development rights for the erection of new transmission poles, if this scheme would necessitate provision of such poles or pylons or wiring that should be considered as part of the impact assessment.

Turning to the technical report itself, we note that sections 7 and 8 seek to demonstrate that the Noke site is the only point you could connect to the Headington-Bicester 33KV

line, because at other points in the Green Belt (but without the other aspects that make the Noke site sensitive) the line is underground and too expensive to connect to, whilst beyond the Green Belt (M40) it runs close to the railway and these sites cannot be used because of the risk of RoEP (Rise of Earth Potential) and its potential impact on railway signalling systems.

On the first of these points the report is clearly incorrect on the routing. Mention is made of the Kidlington level-crossing, but we don't believe it runs anywhere near the Kidlington level-crossing. Parts of the line are underground between Noke and Headington (but even so we doubt if the expense of connecting to these would make a solar farm unviable), but between Noke and Bicester, apart from a short section where it crosses the continuation of Middle Street, Islip and the M40 itself, we believe it is wholly above ground. This means there is plenty of farmland still in the Green Belt, but less sensitive than Noke, where a solar farm could be built and connect into the same overhead line. Officers should make a careful review of such assertions in the submitted document to check its veracity. It does not appear that other local landowners were approached by the applicants. Where harm is to be done some effort to find less harmful locations should be undertaken.

For instance, the map in the Appendix to the Technical report shows the 33KV cable as running wholly underground from the proposed site until it meets the railway and then running on the North side and parallel to the railway. This is clearly not the case as can be seen from google maps or visual on the ground inspection. As explained, it is still mainly above ground North of the proposed site and then runs on the south side of the railway (not the North) until the M40. The distance from the railway varies but is as much as 300m at Mansmoor Road.

On the second point, we again would advise the Council to seek independent specialist advice. The distance from the railway is greater than the width of the supposed RoEP risk zone shown on the map in the appendix, many solar farms are already adjacent to railways, for instance between Haddenham and Princes Risborough on the same line, and it isn't clearly explained how RoEP can present a risk to rail signalling systems over 100m away, but not to pedestrians on a public footpath running through the middle of the site. It is questioned as to how other solar developers are content to develop close to railways but not these proposers.

Planning balance

The consideration of such applications is a balance between the positive elements of such schemes against the negative impacts in light of the prevailing planning policy.

Whilst the provision of renewable energy should be applauded it cannot be viewed as an overriding consideration to all other matters and will not be suitable to every site.

In this case the site is located within the Green Belt which is a highly protected area through planning policy. It will lead to significant and real harm to Green Belt through encroachment, substantial harm through the loss of openness and also definitional harm through being inappropriate development. Development should therefore only be approved in very special circumstances and where these clearly outweigh other considerations.

In this case there would also be significant harm to the landscape and visual amenity of the valued landscape area given the topography and constraints of the site meaning the solar farm would be visible and incongruous in a number of localised and also wider views. This scheme is unlike many other solar farms which are much better visually

contained. In this case the landscape and visual impacts cannot be adequately mitigated.

The proposal is also located adjacent to a very sensitive ecological site- particularly for birds- and insufficient evidence exists to demonstrate there would not be significant impact on this important area. Furthermore, there are significant question marks over how a number of aspects of the mitigation proposed would be delivered and maintained. The site area and land control requirements are deficient. The applicant does not control land beyond the red line and does not appear to be able to deliver what it says it could.

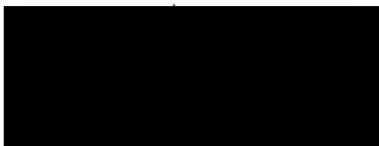
The scheme aims to deliver more electricity than is needed locally in an area where no significant development is expected. It will cause heritage harm.

The matters in favour - renewable energy generation, reduction in carbon emissions, questionable net gain and unproven network capacity/availability- do not in our view amount to sufficiently weighty very special circumstances to outweigh harm arising from the development.

Objecting to applications is not something we do lightly but on the particulars of this scheme and its location we would endorse refusal of the application; it is amongst other things contrary to policies ESD5, ESD13, ES10. It might be the right development, but it is in the wrong place and it is the purpose of the planning system to protect what needs protecting and direct worthwhile projects to the right locations. Thus it seems that the Local Planning Authority should determine this submission without further delay and refuse planning permission for the reasons outlined above.

It is for these reasons that this form of development would need to be reported to the Secretary of State should the Council contemplate approval (The Town and Country Planning (Consultation) (England) Direction 2021). The Secretary of State is clearly of a mind to avoid just this sort of development.

Yours sincerely



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