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Development Management

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our reference:	your reference please ask for:	date:
23/01234/PREAPP	Edward Bannister [REDACTED] [REDACTED]@cheshirewestandchester.gov.uk	18 August 2023

Dear Nick

Town and Country Planning Act 1990

Proposal: Proposed 25.83 MW solar farm and Battery Storage

Location: Land south of Thornton Le Moors, Cryers Lane, Chester West, CH2 4LH

I write in response to your pre-application proposal for the above-mentioned site.

Relevant plans and guidance

As you're aware, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The local development plan is comprised of the following documents:

- Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015) – LP1.
- Cheshire West and Chester Local Plan (Part Two) Land Allocation and Detailed Policies (2019) – LP2.

Local policy guidance:

- Cheshire West and Chester Local Landscape Character Assessment – Landscape Strategy (2016) (attached separately).
- Cheshire West and Chester Landscape Sensitivity Study and Guidance on Wind and Solar Photovoltaic Developments (2016) (attached separately).

Also of relevance is national planning policy set out within the Framework (NPPF).

Principle of the development

The application site lies in the countryside, has an area of 59.75 hectares and is comprised of several parcels of agricultural land set within the Green Belt.

The site consists of two adjoining parcels of land separated by Cryers Lane:

- Parcel A (42.61 ha) – located immediately to the south and south east of Thornton le Moors is bound by the M56 to the south, Thornton Green Lane to the west and Cryer's Lane (B5132) to the east.
- Parcel B (13.54 ha) – located immediately to the east of Cryers Lane and is bound by the M56 to the south east, with Peewit Lodge located immediately to the south, and agricultural land to the north and north east of the parcel.

Green Belt

As regards the Green Belt, Policy STRAT 9 of LP1 in effect defers consideration of this issue to the Framework.

The Framework specifically considers renewable energy projects in the Green Belt within paragraph 91. It states, "When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources".

Solar farms do not benefit from any of the exceptions to the general presumption against new development in the Green Belt set out within national policy and, as such, the proposal would be classed as an inappropriate form of development in the Green Belt and will, by definition, be harmful.

In addition to being inappropriate development in the Green Belt by definition, it is considered that whilst the solar panels would lie relatively low to the ground, the expanse of the solar array across the site would be large. Added to this are the likely range of ancillary and peripheral structures, including battery storage units, substation and fencing etc, all of which are liable to result in a development that would result in a material loss of Green Belt openness in both spatial and visual terms; openness being the fundamental aim of Green Belt as well as their permanence. The development would also encroach into open land for which one of the purposes of the Green Belt is to assist in safeguarding from.

The onus would therefore be on the developer to demonstrate why planning permission should be granted. The Council would expect the developer to put forward the very special circumstances required to justify the proposed development in any eventual application for planning permission. To this end, the arguments set out within paras 4.7 to 4.13 of the supporting statement should be expanded on significantly.

Countryside

In line with STRAT 9, Policy DM 52 of LP2 require proposals for solar farms to be sited on previously developed land wherever possible. It would therefore be necessary to demonstrate that there are no previously developed sites available for a solar farm development, and the developer's commitment to undertaking an alternative sites assessment is welcome.

The scope for this assessment is set out within section 5 of the supporting planning statement. Ideally, this review would look at previously developed or vacant industrial sites, including datasets on Housing and Economic Land Availability (HELAA), Employment Supply and Housing Land Monitor and sites within established business parks, considering alternative sites as well as alternative suitable grid connection availability.

Irrespective of whether it can be demonstrated that there are no alternative previously developed sites available, and that the proposal requires a countryside location, Policy DM 52 would also not support solar farm development on good quality agricultural land, noting that part of the site is graded 3a and 3b respectively. The proposal would therefore reduce the amount best or most versatile agricultural land available, albeit for a time limited period of 40 years. The land could be returned to its previous use following the completion of the decommissioning process, but the loss of good agricultural land should be explored, in some detail, within an appropriate land quality assessment.

Policy DM 52 also requires solar farm development to be of a suitable scale for the landscape sensitivity of the area having regard to the Council's Landscape Sensitivity Study (2016). Proposals in areas which have been assessed as having high sensitivity to the scale of development proposed will not be permitted. The proposal would be classed as a very large solar farm (at almost 60 hectares in size) according to the Council's Landscape Sensitivity Study. The site is located within the Cheshire Plain West (9a Dunham to Tarvin Plain) in the Landscape Strategy, which is designated as an area with a high sensitivity to large solar farm development. Therefore, the proposed very large solar farm development located in an area designated with high landscape sensitivity is likely to conflict with Policy DM 52.

It should be noted that policy DM 52 has been informed by the Cheshire West and Chester Landscape Sensitivity Study (2016), which has provided an assessment of the sensitivity of the borough's landscape to accommodate solar energy development. It has identified areas, based on Landscape Character Areas, which would be sensitive to this type of development to varying degrees. The study concludes that landscape character significantly limits the potential for medium or large sized solar farms (6 hectares - 25 hectares and above) within the borough. The greatest potential in the borough is for very small or small solar farms (less than six hectares) located in areas of lesser landscape sensitivity (low/medium or medium sensitivity). To be supported, such proposals would need to be in scale with the landscape, in particular field patterns of hedgerows, trees and other human-scale landscape features.

The Council has declared a Climate Emergency with the aim of achieving carbon neutrality by 2045, and the proposal would make a long-term contribution towards this aim given that it would be designed to have a lifespan operational period of up to 40

years. These matters would be given weight in the Council's determination of the application. However, as noted by the National Planning Guidance, the need for renewable energy does not automatically override environmental protections and planning concerns such as landscape impact.

Technical considerations including the viability of the development and the need for a suitable grid connection would also be afforded due weight in the decision-making process, but again would not automatically override environmental protections and the planning concerns highlighted above.

Impact on Landscape Character

Policy DM 52 of LP2 echoes the position of Policy ENV 7 of LP1, which requires solar development to not cause an unacceptable landscape impact; while Policies STRAT 9 and GBC 2 seek to protect the character and beauty of the Cheshire countryside and require development to be of an appropriate scale and design to not harm its character.

As mentioned previously, the site is located within LCT 9: Cheshire Plain West, LCA Type 9a: Dunham to Tarvin Plain.

The Cheshire Plain West is particularly sensitive to a medium, large or very large solar farm that would be out of scale with the medium to small scale field pattern, that may involve the removal of traditional agricultural landscape features and that may bring a perception of human influence in a landscape with limited built development and man-made structures and a perceived naturalness.

The overall management strategy for this landscape should be to conserve and restore the historic field pattern of hawthorn hedgerows and hedgerow oak trees and enhance the grassland and small woodland network, and to limit the influence of urban and industrial development to the north on the rural character of the plain.

Guidelines that are relevant to the proposed development include measures to:

- Maintain an intact hedgerow network through management of hedges and ensuring a young stock of hedgerow trees.
- Avoid over-intensive flail mowing or ploughing too close to hedgerow boundaries – protect saplings and encourage trees to grow up at intervals along the hedgerows.
- Consider opportunities to replace hedgerows where they have been lost utilising appropriate species of hawthorn and oak standards.
- Conserve the remaining hedgerow trees and seek opportunities to encourage a new generation of hedgerow trees to increase their presence in the landscape.
- Consider opportunities to plant simple, small pockets of trees and small blocks of woodland in field corners to ensure the continuation of these declining characteristic features.

- Conserve the small to medium scale pattern of fields, particularly early field systems which provide historic continuity in the landscape, particularly around settlements.
- Increase the biodiversity of intensively managed grassland and arable land – create and link buffer strips along linear features such as hedgerows to create a continuous network of wildlife corridors.
- Conserve the remnant fragments of unimproved grassland that is of nature conservation value and consider opportunities to extend / recreate this habitat.
- Encourage the retention and management of field ponds and brooks that are of wildlife importance as well as contributing to the diversity of the landscape.
- Conserve the remaining areas of ridge and furrow by restricting use of fields to pasture.
- Conserve the sense of peace and quiet away from the main roads, and conserve the rural character of the lanes. Avoid features that “suburbanise” the landscape such as kerbs and large-scale signage.
- Conserve distant views to the Welsh hills and take account of views from the Sandstone Fringe and Sandstone Ridge when planning for change.
- Maintain the rural setting to villages and farmsteads which are features of the landscape.
- Ensure any industrial character or large scale commercial development in M56 corridor and beyond is appropriately sited, designed and orientated so as to limit its influence on the rural and tranquil plain to the south, with extensive mitigating planting as necessary.
- Ensure the design of elements associated with new development such as boundary treatments and surfacing recognise, respond to and reflect the traditional vernacular of existing landscape elements that help to define the landscape character, in order to prevent encroaching sub-urbanisation.
- Ensure that the siting of Solar PV farms is not visually prominent from higher ground.

In summary, the site is considered to be highly sensitive to change and, as such, it is unlikely that a 59 hectare solar farm can be assimilated successfully. Should the applicant wish to proceed with an application for planning permission, any submission should include a supporting Landscape and Visual Impact Assessment (LVIA), which should make reference to both the Landscape Strategy 2016 and Landscape Sensitivity Study and Guidance on Wind and Solar Photovoltaic Developments (2016).

The LVIA would be expected to include.

- Methodology for a LVIA.
- Zone of Theoretical Visibility (ZTV) Mapping.
- Viewpoints and supporting Map.

- Submission of photographic image viewpoints. Include for views from higher ground including Helsby Hill. Viewpoints are to be agreed in advance of any submission, and they should include both winter and summer views.
- A selection of proposed viewpoints for a photomontage. Again, these should be agreed in advance¹.
- Sections drawings - to include ground levels and existing features.
- Detailed landscape layout plan - to include for existing and proposed features.
- Effects – landscape and visual, which should also address potential cumulative impacts.
- Proposed landscape strategy and landscape mitigation design rationale.
- Layout and Mitigation – the LVIA and proposed development layout should demonstrate an iterative design process. It should assess the solar farm in operation and include proposed mitigation measures as part of the assessment. Any proposed development will need to demonstrate appropriate and considered mitigation to ensure that the mitigation in itself does not negatively impact on the features of the receiving landscape character area, which make it locally distinctive.
- Information on visual impacts from nearby public footpaths, including information about any new or improved public access.
- Information on proposed buffer areas.
- Boundary treatment and access information.
- Glint and Glare / reflection study - this should be incorporated into the LVIA.
- Management and maintenance plan.
- Decommissioning plan.

Biodiversity

This is a large site in the open countryside containing a range of ecological features, including ponds, streams, drainage ditches, trees and hedgerows.

The Mersey Estuary RAMSAR, Special Protection Area (SPA) and Site of Specific Scientific Interest (SSSI) is located approximately 2.6km from the site, while the Gowy Meadows and Ditches Local Wildlife Site (LWS) is adjacent to the development area.

Policy ENV 4 of LP1 safeguards and enhances biodiversity and geodiversity. It states that development should not result in any net loss of natural assets, and should seek to provide net gains. Where there is unavoidable loss or damage to habitats, sites or features because of exceptional overriding circumstances, mitigation and compensation will be required to ensure there is no net loss of environmental value.

¹ Please confer with our landscape architect [REDACTED] ([\[REDACTED\]@cheshirewestandchester.gov.uk](mailto:[REDACTED]@cheshirewestandchester.gov.uk)) before commencing work on this document.

Policy DM 44 of LP2 builds on this by stating that development likely to have an impact on protected sites (statutory and non-statutory), protected/priority species, priority habitats or geological sites must be accompanied by an Ecological Assessment that complies with industry best practice and guidance.

Natural England considers that there are potential likely significant effects on the Mersey estuary designations, and the Gowy LWS has numerous plant, habitat and animal reasons for designation, some of which could be directly or indirectly be affected by the proposed development.

Wintering bird surveys have been carried out and these reveal significant numbers of Teal and Wigeon, which are species associated with the designations, to be present on site. The percentages present are likely to classify the site as functionally-linked land, which would need to be addressed in any eventual application submission. Wintering birds could be directly affected by habitat loss and indirect disturbance effects. Other species associated with the LWS could also be affected.

The Council's Biodiversity Officer states that ecological surveys will need to be submitted in support of a planning application, together with mitigation, compensation and enhancement measures in line with BS:42020. These should include:

- Desk study including consultation with the local record centre.
- An Extended Phase 1 or UK Habitat Classification Survey.
- Surveys for protected and priority species in line with Natural England Standing Advice and best practice guidelines.

It must also be demonstrated that the final development will achieve an overall net gain in biodiversity in line with both the Policy DM 44 of LP2 and the Framework, although this could well be a statutory requirement by the time an application is submitted.

Government guidance states that biodiversity metric calculations should be made to demonstrate a net gain. Defra Biodiversity Metric 3.0 has been published by Natural England which is a standard accepted tool to calculate biodiversity net gain. Where a net loss is demonstrated post development after all on-site mitigation/compensation has been explored, off-site compensation may be explored, in order to bring the overall development into net gain. The mitigation hierarchy should be followed in line with best practice guidance. The sites existing habitats present before the onset of any landscaping works should be considered within the metric. The metric should be undertaken at an early stage to influence the landscape design to achieve the greatest compensation and net gains in biodiversity in line with expert advice from an ecologist.

Transport

An eventual application submission would need to include sufficient details on the likely highway impacts of the proposed solar farm, which would normally be addressed in a Construction Traffic Plan and a Transport Assessment (TA).

Any significant transport and highway impacts would likely be from the construction phase of the development (and subsequent decommissioning 40 years in the future). The TA would therefore need to demonstrate that the access with the highway and the route into the site is, or can be, made suitable for use by the HGVs and that suitable visibility splays are achievable, in accordance with policies STRAT 10 of LP1 and Policy T 5 of LP2.

Heritage and Archaeology

Policies ENV 5, DM 47 and DM 46 of the local development plan require development to conserve the significance of listed buildings and their settings and preserve or enhance the character and appearance of conservation areas. The Framework states that any harm to, or loss of, the significance of a designated heritage asset (including from development within its setting), should require clear and convincing justification. Substantial harm to Scheduled Ancient Monuments or Grade I listed buildings should be wholly exceptional. The Framework also states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

There are two Grade II listed buildings approximately 100 metres to the north of the site boundary (Yew Tree House and Church House). In addition, since the proposal would be adjacent to the Thornton-le-Moors conservation area, the setting of both this and the nearby listed buildings might well be affected by the proposed development. It is likely that the proposal would result in some degree of harm to these assets and this issue should be addressed in a heritage impact assessment. Historic England would also be consulted at the application stage. Even the lowest degradation of harm (less than substantial) to these assets would need to be outweighed by the public benefits of the proposal, as per the requirements of heritage policy.

In relation to archaeology, a Scheduled Ancient Monument comprising a moated site, fishpond and associated drainage channel is located approximately 500 metres to the north-east of the site. Whilst it is appreciated that the development would involve limited below-ground intrusion, but the settings for the panels, excavation of cable trenches, and the establishment of site infrastructure all have the potential to cause some disturbance to any below-ground remains. Since the proposal is liable to have an effect on the cultural heritage of the area, these issues may also be addressed by means of the preparation of a full heritage assessment. The preparation of this document should involve consideration of sources such as information in the Cheshire Historic Environment Record, historic maps, aerial photographs, etc. The report will assist in assessing the detailed impact of the scheme and establishing the need, if any, for further archaeological mitigation, in line with Policy DM 50 of LP2.

Amenity and environmental pollution

The development has the potential to result in an amenity impact on local residential properties during the construction phase, from noise and disturbance and due to HGV deliveries. A Construction Environmental Management Plan (CEMP) would therefore be required with any application setting out how the development would mitigate these amenity impacts in accordance with Policies SOC 5 and DM 2 of the local development plan.

Also of importance is that the site is partially within the Thornton-le-Moors Air Quality Management Area. Whilst the development is not of a type that would result in emissions, the CEMP would ideally set out measures to limit the impact on the AQMA during the construction phase.

The north-east of the site forms part of an area that is known or suspected to be contaminated and, as such, the proposal would need to be accompanied by an appropriate contamination assessment.

It is noted that modern solar panels can have a low impact in terms of light reflection, glint and glare. However, as mentioned previously, a glint and glare reflection study would be required with the application to demonstrate no impact on nearby settlements, isolated residential properties, public rights of way, highway safety and aircraft operations.

Flooding and drainage

Policy ENV 1 states that developers will be required to demonstrate, where necessary, through an appropriate Flood Risk Assessment (FRA) at the planning application stage, that development proposals will not increase flood risk on site or elsewhere and should seek to reduce the risk of flooding.

The majority of the site is at the lowest risk of flooding from rivers (Flood Zone 1), although a small number of panels would be installed in close proximity to Flood Zones 2 and 3, which lies to the north of the pond situated between the M56 and Cryers Lane, and this issue would require further clarification in an application submission. Assuming part of the site does fall within Flood Zone 2/3, a sequential site assessment would be required, although solar farms are classed as essential infrastructure and as such there would not be any requirement to undergo the exception test. There also appear to be ponds and/or drainage ditches that cross the site which may be managed by the Lead Local Flood Authority (LLFA).

Since the development would exceed an area of 1 hectare, an FRA will be required, and the application should be accompanied by an appropriate drainage strategy should the developer wish to avoid a pre-commencement condition.

Public Rights of Way (PROW)

There is a Public Rights of Way (PROW) to the north of the site (Thornton-le-Moors FP2). The development would need to demonstrate that it would not impact on this public footpath, including any direct impacts on the footpath routes, impacts on views and sightlines together with details of proposed mitigation measures.

Environmental Impact Assessment (EIA)

An EIA Screening Opinion was submitted with this application (22/04248/SCR).

The development is Schedule 2 development under the EIA Regulations (3a Energy Projects) with a site area over 0.5 hectares. The site is located in an area which is locally

protected for its landscape value. The site is considered highly sensitive to change and the size of the proposal is such that it would be likely to result in adverse landscape impacts.

Furthermore, the development would likely affect bird species associated with the Mersey estuary at both the application site and on the adjacent Gowy LWS.

Overall, it is considered that a significant effect is likely and the development is considered to be EIA development. An Environmental Statement would therefore be required with the application.

Other issues

You will be aware that the development of the site is constrained by the presence of underground and overhead infrastructure, including pipes and cables. Consultations will be undertaken as part of the planning application process in line with the relevant legislation and regulations, but you may wish to discuss your proposal with the owners of these assets before starting any work on any application for planning permission.

Of particular significance is the site's proximity to the HyNet Carbon Dioxide pipeline project. This is a Nationally Significant Infrastructure Project currently being examined under the Development consent Order process. The examination is due to finish in September 2023. The DCO if approved will be undertaken within the approved order limits as shown on the approved plans (works).

National infrastructure pages: [HyNet Carbon Dioxide Pipeline | National Infrastructure Planning \(planninginspectorate.gov.uk\)](#)

The most recent works plans (Sheet 4) for the DCO are here: [EN070007-001773-D.2.4 Works Plans \(Rev D\).pdf \(planninginspectorate.gov.uk\)](#)

Applicants: web page [The HyNet North West CCS project in the UK | Eni](#)
HyNet Web page: [HyNet North West](#)

Concluding comments

Although national and local policy are generally supportive of proposals for the provision and development renewable energy, it needs to be demonstrated that very special circumstances exist to outweigh the harm to the Green Belt by reason of inappropriateness and the other harm identified, including loss of openness and the purposes of including land within the Green Belt. In addition, you would need to demonstrate that there are no previously developed sites before sites in the open countryside can be considered. This would need to be a borough-wide assessment. Development on high quality agricultural land would also not be supported. Furthermore, the proposal would not comply with the Council's landscape policies, which do not support very large solar farm development such as this in areas of high landscape sensitivity.

Validation requirements

Should the developer decide to proceed with an application for planning permission, the range of supporting documentation that will be required in support would be quite comprehensive. Supporting documents have been mentioned in various sections of this letter, and the Council fully endorses the list of documents set out within section 6 of the supporting statement. However, please note that the Council is in the process of adopting a local validation checklist, and the current list of documents is not exhaustive: any further supporting documents will be requested during the process of assessing the proposal.

I would confirm that an application submission would be assigned to myself upon completion of the validation process, although you may wish to consider entering into a Planning Performance Agreement, in order to for the application to be prioritised. Further information can be obtained from my colleague Dan Lockwood, our Planning Obligations Manager [REDACTED] [@cheshirewestandchester.gov.uk](mailto:[REDACTED]@cheshirewestandchester.gov.uk)).

I would also confirm that the application would be tabled at the planning committee at the earliest opportunity, in line with the terms of the Council's constitution: a decision either way could not be taken under delegated powers.

Finally, it is important to note that the advice set out within this letter is given at officer level only. It does not represent the views of the Council and it is without prejudice to the formal consideration of any future application for planning permission.

I trust this is of some assistance, but please contact me if further information is required.

Yours sincerely

Edward Bannister
Senior Planning Officer