

Recommendation Report for Planning Permission

REF NO: BN/29/15/PL

LOCATION: Land at Barnhan Court
Barnham

PROPOSAL: Solar park including the erection of solar arrays, inverters, transformers, equipment housing, security fencing, internal tracks, ancillary equipment & ecological mitigation. This application is a Departure from the Development Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Solar arrays with associated equipment accessed via the public right of way off Church Lane. The site is to the west of Barnham Court with the railway track to the west boundary. The solar farm will be capable of producing 1MW of electricity to the National Grid.

The solar farm will cover one section of a field surrounded on all sides (other than the south) by trees and small forest areas. The panels will be laid out in rows from west to east, in a south facing orientation a maximum of 2.4m high set in from the boundaries by 2m. Stock-proof fence with a wildlife protection zone outside of this.

There would be two transformer units 2.61m high, 2.438m wide and 6.058m deep located side by side to the east of the site with switchgear container to the east 3.4m high, 2.44m wide and 12.190m long. These would be contained within the fencing but a substation unit would be to the east of these in the wildlife protection zone this would be 3.311m high, 2.434m wide and 6.048m long.

The application has been amended to increase the bottom edge of the panels to 1.3m high in line with Environment Agency Requirements, the top edge of the panels remains at 2.5m. This also meant that the arrangement of the panels has also been amended.

SITE AREA

2.5 hectares.

RESIDENTIAL DEVELOPMENT DENSITY	N/A
TOPOGRAPHY	Slopes downwards from south to north creating a dip in the landscape.
TREES	None of significance affected.
BOUNDARY TREATMENT	The railway bounds the site to the west and vegetation and shrub line before the bank, a tributary to the Ryebank Rife, dense shrub line with trees and public right of way are to the north. Dense, medium height forested area to the east with small pond. No boundary treatment to the south. The access section of the site runs north of the remains of the Portsmouth and Arundel canal.
SITE CHARACTERISTICS	Grade 3 agricultural grassland.
CHARACTER OF LOCALITY	Rural with horse paddocks to the north east in front of Barnham Court Farm. The nearest residential property is Fattening Ground Barn to the South at over 240m away. The nearest residential property to the east (forming Barnham Court properties off Church Lane) is St Marys Anchor Hold and the properties on Barnham Court Farm at 478m. The properties are of various styles mainly two storey with some listed buildings. Barnham Court and St Mary's Parish Church are Grade I listed. Agricultural land situated to the south including. The remains of the Portsmouth and Arundel Canal run to the north east.

RELEVANT SITE HISTORY

None relevant.

REPRESENTATIONS

Representations received:

Barnham Parish Council

The Council resolved to submit an objection to the application on the following grounds:

The proposed transport plan for both construction of the facility and the long term running of the facility is inadequate in particular the proposed use of a layby, which is not in fact a layby, the proposed routing along part of a public footpath and the swept path proposal for the junction with Church Lane.

The Council also doesn't believe that a solar farm is the right long term use for this land.

16 individual letters of representation have been received from members of the public including one from a Parish Councillor one from a County Councillor and one from a Ward Councillor.

The following concerns are raised:-

- *Access along Church Lane cannot accommodate level of HGV traffic generated by the build
- *Highways safety concerns
- *Inadequate Construction Management Plan in terms of access and Traffic Management Plan including incorrect identification of passing points on Church Lane
- *Interruption of public right of way by construction affecting horse riders, cyclists and walkers
- *Loss of trees in a Conservation Area owing to the use of HGVs on Church Lane
- *Loss of rural character owing to appearance of solar panels
- *Removal of Agricultural land from use

Some letters refer to not objecting to the solar farm but issues of access for construction.

Comments on Representations received:

Following consultation with WSCC and further consultation following an amended Construction Management plan resulted in no objections on highways grounds. Other than the issue of access along the Public right of way and unmade lane when Church Lane ends which will be dealt with via pre-commencement condition. It is not considered that trees will be lost or significantly damaged in the Conservation Area due to construction traffic. Highways are considered in 'Conclusion'.

With regard to the loss of the rural character; the site has been selected carefully for a relatively small solar farm which is in a dip. It is not considered the impact on the open countryside is significant enough to warrant a level of harm whereby planning permission could be refused. The site consists of Grade 3 agricultural land which is not of high value, the NPPF encourages alternative uses for poorer quality agricultural land and therefore the site is considered acceptable for this use. These issues will be further considered in the 'Conclusion' section of the report.

CONSULTATIONS

Engineering Services Manager
Engineers (Fluvial Flooding)
Southern Water Planning
Network Rail
Environmental Health
WSCC Strategic Planning
Environment Agency
Parks and Landscapes
Ecology Advisor
South Downs National Park
Historic England

Consultations responses received:

WSCC FLOOD RISK MANAGEMENT

As no detailed designs have been submitted, if approved at outline stage, the proposal should be subject to the following condition:

Development should not commence until finalised detailed surface water drainage designs for the site, based on sustainable drainage principles and an assessment of hydrological and hydro geological context of the development have been submitted to and approved in writing by the Local Planning Authority. The drainage designs should demonstrate that the surface water runoff generated up to and including the 100 year, plus 30% for climate change, critical storm will not exceed the greenfield run-off from the current site following the corresponding rainfall event.

If the intention is to dispose of any surface water via infiltration (e.g. soakaways or porous surfaces), this should be shown to be suitable through an appropriate assessment carried out under BRE Digest 365 (or equivalent) before any conditions are discharged.

In particular the designs should detail how the fluvial flood risk is proposed to be dealt with to ensure that flood risk on site is mitigated and that no increased risk is posed off site. (full condition and comments included on Council's website).

ENVIRONMENTAL HEALTH

There are no objections to the above application from environmental health.

ENVIRONMENT AGENCY

Planning permission should only be granted for the proposed development as submitted if the following planning condition is imposed. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would wish to object to the application:-

Condition

The development hereby permitted shall not be commenced until such time as a scheme to ensure no net loss of floodplain storage has been submitted to, and approved in writing by, the local planning authority.

We advise that solar panels are erected 300 mm above the 1 in 200 year plus climate change level (minimum height of 4.74m above Ordnance Datum (AOD). This is opposed to the proposed level of just 2500 mm above existing ground level (around 3.5mAOD) as indicated in Drawing number 2768_04 (Typical Panel Elevations).

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To prevent flooding elsewhere by ensuring no net loss of floodplain storage and ensuring flood flows are not impeded by the solar panel structures.

To reduce the risk of flooding to the development and subsequent damage.

Advice to Local Planning Authority and Applicant

Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Agency is required for any proposed works or structures in, under, over or within 15 metres of the top of the bank of the main river (Barnham Rife).

The site lies on Lambeth Beds and undifferentiated Chalk formation, the latter classified as a Principal Aquifer. Though the development does not pose a significant risk to the water environment, part of the former Chichester and Arundel canal has been historically infilled though the exact nature of the material is unknown. It is advised that the applicant carries out their own studies as to whether this part of the development presents a risk to the environment.

SECOND RESPONSE

Following the updated modelling, the applicant only needs to raise the panels by about 0.5m above what is already being proposed on drawing (2768_04). This is much less than we originally conditioned - due to more detailed modelling. Note also that we do not require a free board of 300mm. We would just advise that the panels are above the fluvial 1% plus Climate Change level.

Condition

The development hereby permitted shall not be commenced until such time as a scheme to ensure no net loss of floodplain storage has been submitted to, and approved in writing by, the local planning authority.

We advise that the solar panels are erected no lower than the fluvial 1 in 100 year plus climate Change level (1% Annual Exceedance Probability plus 20% allowance for climate change). The solar panels must therefore be no lower than 2.31m above Ordnance Datum (AOD). This is opposed to the proposed level of just 800mm above existing ground level (around 1.8mAOD) as indicated in Drawing number 2768_04 (Typical Panel Elevations).

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing I phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To prevent flooding elsewhere by ensuring no net loss of floodplain storage and ensuring flood flows are not impeded by the solar panel structures.

To reduce the risk of flooding to the development and subsequent damage.

THIRD RESPONSE

These comments follow amendments to plan:-

As discussed in response to the revised plans please see below:

I can confirm that these levels are acceptable. Please add condition.

The proposed development will only meet the requirements of the National Planning Policy

Framework if the following measure as detailed in the Flood Risk Assessment ICBR0039_FRA-Rev 00 20th July 2015 and subsequent drawings (2768_04 Rev A & 2768_03) submitted with this application are implemented and secured by way of a planning condition on any planning permission.

Condition

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA)Ref: ICBR0039_FRA, along with drawings 2768_04 Rev A and 2768_03 and the following mitigation measures detailed within:

-As detailed within drawing 2768_04 Rev A (dated 1/02/2015), the lower edge of the panels should be no lower than 1.3m above existing ground level (2.3m Above Ordnance Datum (AOD). This is in line with the flood level of the 1 in 100 year plus climate change (1% Annual Exceedance Probability plus 20% allowance for climate change).

Reason

To prevent flooding elsewhere by ensuring no net loss of floodplain storage and ensuring flood flows are not impeded by the solar panel structures.

To reduce the risk of flooding to the development and subsequent damage.

ADC DRAINAGE ENGINEER

A 3m easement for access and maintenance of the ditches surrounding the site should be reserved so that riparian responsibilities can be carried out (ditch maintenance). The EA has already requested notification of any works within 15 metres of the main river. Apply condition ENGD6A.

WSCC HIGHWAYS

WSCC raise no objection to the proposed development at Barnham Court. WSCC are satisfied the increase in vehicle movements will only be for a temporary period, and the overall the traffic impact can be managed. WSCC are satisfied the proposed routing options are the best possible routes for large vehicles to take and a section 59 agreement should be progressed at the applicant's earliest convenience to ensure the mitigation measures are appropriate. An update to the construction management plan needs to re-consider the Church Lane junction, to include the potential for parked cars causing obstruction to the route. No objection is raised subject to conditions attached (full comments on Council's website).

SECOND CONSULTATION (following updated CMP submission)

No objection to the proposed development at Barnham Court. The increase in vehicle movements will only be for a temporary period, and the overall the traffic impact can be managed effectively. WSCC are satisfied the proposed routing options are the best possible routes for large vehicles to take and a section 59 agreement should be progressed at the applicant's earliest convenience to ensure the mitigation measures are appropriate. No objection is raised subject to conditions.

WSSC RIGHTS OF WAY OFFICER

Unfortunately the Council's system was not working to view the application in full so some issues may not be relevant but I would welcome these being considered when deciding the application.

Whilst PROW have no objection to this application there are a few concerns and need for clarification on some issues with regard to access. The access route into the site is unclear without being able to view the application plans on the District Council website. If access from Church Lane is being acquired through Barnham Court Farm then this is less of an issue however if they are looking to gain access along the red line on the attached plan then this will have to be managed carefully. The north south section of this red line, from the Church south, forms part of a public footpath (146) that also has a permissive cycle route on it that is very well used. If this is the way the vehicles will be accessing the site then it must be clear that users exercising their public right of access along these routes must take precedent over any private rights of vehicular access. The same goes for the section of FP200/1 highlighted red as well. These both have firm sealed surfaces but any damage done to the surface, as part of these works, must be reinstated to the condition prior to works starting so the public right is not interfered with or adversely effected. As well as these points these paths should not be obstructed or restricted in width in any way during or after the works as the public right exists across the full extent of the width of these defined routes. Signage would also be required along these paths informing all users, whether pedestrian, cyclists or vehicular users, of the potential conflict.

Clarity would be welcome on what route of vehicular access will be available when travelling west from the red line, toward the site of the solar farm. The line of FP200/1 actually runs along the southern edge of the old canal and becomes a raised bank the further west it goes and it is hoped that the proposals are for vehicular access to be gained on the old northern bank of the canal, safely away from the legal line of the footpath and pedestrian users. This would seem the most sensible option as the footpath is not very wide but if this could be clarified that would be appreciated. If it was the case that access was being granted along the legal line of the footpath then surface improvements would be required so the route was useable all year around, even though it was experiencing considerable vehicular use.

The final issue relating to the access itself would be the point it crosses FP200/1 (as shown roughly by the red square on the attached plan) into the actual site of the proposed solar farm. There is a clear crossing of the legal line of the footpath and due to the works taking a reasonably long time to be completed, and future access being required for maintenance it would be required for a stone surface to be laid at the point where the two routes cross so it is useable all year round even though vehicles are using it. If left as an unmade surface this route will become impassable to lawful pedestrian users when wet and this would be unacceptable. A specification for such surface improvements would have to be agreed with the PROW team at WSSC before works took place. At this crossing point where the access to the site and the public footpath cross, signage would be required informing that the public right takes precedent over the private vehicular right and also warning of the potential conflict along the entire east west section where vehicles will be moving close to lawful pedestrian traffic on the footpath.

The final point I would like to make relates to the unofficial layby opposite the church, at the top end of FP146, off Church Lane. Whilst this does not form part of the public right of way it is a useful resource for footpath users who park up to walk the routes and dogs etc. This should

be kept clear in my opinion so the use of the surrounding network of public rights of way is not adversely effected by any parking, waiting or storage activities. Clarification on the points raised would be welcomed and if you could provide a detailed plan of access onto the proposed solar farm this would be very much appreciated so further comments can be made, if necessary.

ECOLOGY

Bats

Lighting will need to take into consideration the presence of bats in the locality and the scheme should minimise potential impacts to bats using the trees, hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding.

Badgers

A 20m buffer should be put in place around the active sett and no works should take place within this area and fencing should be used to ensure this area remains undisturbed. If any works need to be undertaken within 30m of the sett a licence from Natural England would be required.

If it is not possible for the buffer to be put in place then mitigation would be required and a Licence from Natural England would be required to remove the sett. If this is the case we would require a mitigation strategy for Badgers is submitted to us for approval prior to determination.

Badgers and other mammals should have unrestricted access to the solar farm field and should be able to forage in the field for their usual food sources; we are pleased to see the incorporation of mammal gates within the boundary fencing.

Reptiles

A precautionary approach should be taken within the site area with regards to reptiles. The grass should continue to be cut regularly so reptile habitat doesn't develop. Any dead wood, or rubble piles should be dismantled by hand and relocated.

Nesting Birds

Any works to the trees or vegetation clearance should only be undertaken outside of the bird breeding season (1st March - 1st October). If works are required within this time an ecologist will need to check the site before any works take place (with 24 hours of any work).

Management plan

A management plan will need to be constructed with an ecologist and the land over to manage the annual growth of wildflowers and the development of scrub.

Enhancements

There are a number of possible enhancements which we would like to see including;

- Wildflower planting throughout to assist with the green corridor effect
- Hedgerow management including filling in gaps with native hedge species
- Retention of grassland buffer from all drains.

NATIONAL RAIL

No objection.

PARKS AND GREENSPACE

The proposals put forward in this application have included consideration of its siting within the existing landscape. Existing landscape features such as mature trees and hedgerows and new planting additions have been proposed. The landscape scheme will maximise the biodiversity of the site with the inclusion of native species and the retention of a variety of habitats. The site is not subject to any ecological or sensitive designation ie SSSI.

The existing hedgerows along the north and eastern boundaries are established and mature where possibly no further screen addition will be required. These areas must be protected and retained and would require further planting if infill is found to be required. New planting as proposed would be required to infill sections along the remaining boundaries as shown and where there are gaps and missing sections. New areas of hedgerow planting would be required to be plotted in plan form showing the location of these with quantities proposed. Planting as proposed will need to be sufficient in height with a mix of tree and shrub species that are sufficiently fast growing to provide a year round screen. The screening would need to provide a good mix of native species which if planted at the appropriate size and density should establish quickly to form a balanced and appropriate planting scheme. This will be particularly evident as it matures and the effects on the landscape of the development will diminish over time. The nature of the predominant site will change from arable land to agricultural grassland with solar panels, this will in turn over time create a different habitat with differing biodiversity habitats forming. The proposals could provide the opportunity to enhance existing hedgerows and to secure on-going management of all structural vegetation within the site.

The proposals comply with Policy SP3 as consideration has been given to landscape and biodiversity enhancement through retention of existing hedgerows and the planting of new mixed hedgerow along the boundary.

Drawing 27766-200-MITIGATION PLAN Rev A details areas to be planted and areas to be infilled. This plan is only indicative and needs to show this information plotted on the drawing with planting quantities so the full picture can be seen. We would recommend that further landscape detail is submitted for approval. We conclude that we have no objection to the proposals subject to the plotting of new planted areas in detail and in plan form via condition.

SOUTHERN WATER

The exact position of the foul sewers must be determined by the on site before the layout of the proposed development is finalised.

Please note:

- No development/structures or excavation or new tree planting should be located within 3 metres either side of the centreline of the public sewer
- No new soakaways should be located within 5m of a public sewer
- All existing infrastructure should be protected during the course of construction works.

Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are

required. Informatives regarding the above and SUDS should be included should permission be granted. (Full comments can be found on the Council website)

SOUTH DOWNS NATIONAL PARK AUTHORITY

No response received.

HISORIC BUILDINGS OFFICER

Whilst the application accepts that there are listed buildings within 'close proximity' to the site, two of which are grade I, it does not appear to accept that the array affects the setting of these assets. On the contrary, it seems to be under the impression that because the site is behind some hedges and on slightly depressed ground it is not within the building's setting.

Having made a site visit and walked along the public footpath to the north east side of the site, it is clear that the experience of these assets, currently within largely open countryside is likely to be impacted by the array. Views of the house and church from the west are clear from the footpath as it passes the development site. One may also assume that views of the historic group (which will have medieval origins) are also impacted from the railway line.

There is also an impact on the setting of the former canal which itself would be considered a non-designated heritage asset and Fattig Ground Barn (formerly Highground Barn) to the south of the site which is evident on historic mapping from the late 19th century.

A fuller assessment on setting should be made in accordance with Good Practice Advice note 3: the setting of heritage assets. The authority should also consult Historic England as they may want to comment on the potential setting impacts of Barnham Court and Barnham Church.

SECOND RESPONSE

Following additional information being submitted the following comments were made:

Whilst this is more detailed, I am not sure it is convincing enough for us to remove our objection totally. There would be a change to the landscape character here and this is likely to effect the quality of people's experience as they walk along the route of the former canal (itself a heritage asset) towards the conservation area and its listed buildings. Para 3.5 of the addendum does admit that there are 'locations from which both can be experienced.'

There is also naturally a great emphasis on static views and an attempt to play down the setting of Barnham court and the Church due to distance, however this tends to avoid the potential impact on the countryside and its general character in the broader scene, particularly as it is abutting a historic route towards the heritage assets.

The LVIA does, also unsurprisingly, play down the harm as 'minor' and 'negligible' in its assessment of the various assets which is of course a subjective view point. If one was considering setting from purely a static 'visual' position, this might be correct however setting is normally more complex in terms of experience.

All that said, there is some mitigation (in theory) that should be taken into consideration in as much that the site is considered temporary and as such reversible. There could also be further

measures put in place regarding boundary treatments, particularly as the site is going to take on a more industrial character with fencing to enclose it. This would need to be carefully considered so as not to harm the landscape character and could potentially be a condition should the application be supported.

THIRD RESPONSE

Following additional information being submitted the following comments were made:

Further to our discussion and receipt of the plan, the mitigation proposed is likely to reduce the impact of the development from the north and the public right of way following the canal. Whilst this does not completely eradicate the harm to the countryside, it should soften any effect on the listed buildings and their setting and to this end our objection could be lifted subject to an appropriate condition being put in place to promote native planting in the areas identified. Given that the proposal is also due to be 'temporary', this should result in a longer term enhancement.

HISTORIC ENGLAND

Historic England acts in a statutory capacity as the Government's advisor to local planning authorities on proposals that would, among other considerations, impact on the setting and significance of highly graded heritage assets. In this case it is the impact of the proposal on the setting of both Barnham Court House and St Mary's Church, which appear on our register at Grade I, with which we are principally concerned with here, but also in relation to the impact on the setting on the Barnham, Church Lane Conservation Area.

Both Barnham Court House and St Mary's Church lie on the southern end of the Barnham, Church Lane Conservation Area. They both enjoy a rural setting that to the south and south west comprises predominantly open countryside and the rural buildings of Barnham Court Farm. Barnham Court House is a mid 17th century brick mansion built for a man of wealth and status in what is known as the Artisan Mannerism style. It is considered by Pevsner in his book the 'The Buildings of England - Sussex' to be the best of its date in Sussex. Houses such as this were built for a rich merchant or yeoman farmer responsible for a large agricultural holding. Barnham Court House currently has open views from its gardens out to the open countryside to the south and south west and it is this rural setting that contributes to our understanding of its original design and purpose as the principal house to a country estate.

The proposal is to erect a solar park and ancillary equipment on agricultural land to the south west of Barnham Court House and St Mary's Church. Paragraph 129 of the NPPF advises that the effect of a proposal on the significance of a heritage asset must be assessed, including by development within its setting. When considering the impact of a proposed development on significance, the more important the asset, the greater weight should be given to its conservation and any harm should require a clear and convincing justification.

From the grounds of Barnham Court House looking south west, the vegetation on the northern boundary of the site can be seen. Views out from the church are more contained as a result of the vegetation around the boundaries of the churchyard. In this respect, we agree with the Landscape and Visual Impact Assessment that due to the topography of the site and intervening vegetation the solar panels themselves will not be visible in views from either Barnham Court House or from the church. However, we note that the proposal contains a three metre CCTV pole which could be visible above the existing vegetation when viewed from

Barnham Court House. We encourage the local authority to seek clarification regarding the impact of this pole on the rural setting of Barnham Court House and to seek mitigate of any resulting impacts through alteration to its height, design or location. We would also urge you to seek assurances that no lighting at night is proposed as this would be seen through gaps in the trees and could have a harmful urbanising impact on the setting of Barnham Court House and the conservation area.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

Comments on Consultation responses:

Most conditions and informatives will be included. Some are not considered reasonable and why they are not appropriate or required is outlined in the 'conclusions' section of the report.

POLICY CONTEXT

Designation applicable to site:

Outside built up area boundary
Grade 3 Agricultural Land

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	<u>AREA18</u>	Portsmouth and Arundel Canal
	<u>GEN11</u>	Inland Flooding
	<u>GEN12</u>	Parking in New Development
	<u>GEN21</u>	Renewable Energy
	<u>GEN3</u>	Protection of the Countryside
Publication Version of the Local Plan (October 2014):	<u>GEN7</u>	The Form of New Development
		C SP1 Countryside
		D DM1 Aspects of Form and Design
		Quality
		ECC DM1 Renewable Energy
		ENV SP1 Natural Environment
		HER DM5 Remnants of the Portsmouth and Arundel Canal
		HER SP1 The Historic Environment
		SD SP1 Sustainable Development
		T SP1 Transport and Development
		W DM2 Flood Risk
		HER DM1 Listed Buildings
		LAN DM1 Protection of Landscape
		Character
		Applications for new development must meet the local drainage requirements
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES1		Water courses
Barnham & Eastergate Neighbourhood Plan 2014 POLICY ES2		Quality of design
Barnham & Eastergate Neighbourhood Plan 2014		

POLICY ES5

Barnham & Eastergate Neighbourhood Plan 2014 Development affecting heritage assets

POLICY ES7

Barnham & Eastergate Neighbourhood Plan 2014 The Portsmouth and Arundel Canal

POLICY ES9

Barnham & Eastergate Neighbourhood Plan 2014 Renewable energy schemes

POLICY ES13

Barnham & Eastergate Neighbourhood Plan 2014 Footpath and cycle path network

POLICY GA2

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton;

Rustington; Bognor Regis and Yapton.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the historic countryside locality or the residential amenities of the nearby neighbouring properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

The National Planning Policy Framework sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently.

With specific reference to decision-taking the document provides the following advice:

"187. Local planning authorities should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area."

Paragraph 197 states that "In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development."

Paragraph 93 states:

"Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, 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."

Relevant National policies and documents:-

Overarching National Policy Statement Energy (EN-1)
UK Solar PV Strategy Parts 1 and 2

The development will generate 1MW of electricity which emits no pollution, produces no greenhouse gases and uses no finite fossil-fuel resources offers very real benefits in savings in CO2 emissions and reducing the impact of greenhouse gases on climate change. The development will ensure a constant and affordable source of energy, contribute to economic stability and provide a further form of diversification to support the rural economy of West Sussex.

The NPPF encourages the use of renewable resources, reductions in greenhouse gas emissions and addressing climate change whilst also recognising the intrinsic character of the countryside. One of its core planning principles is to "support the transition to a low carbon future in a changing climate ...and encourage the use of renewable resources (for example, by the development of renewable energy.)" With specific regard to renewable energy, paragraph 98 states 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 approve the application if its impacts can be made acceptable."

In planning for renewable and low carbon energy, NPPG states that "Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable."

The NPPG recognises that large-scale solar farms can have a negative impact on rural environments, but states that the visual impact of a well-planned and well-screened solar farm can be addressed within the landscape if planned sensitively. For greenfield sites, the local planning authority should consider whether poorer quality agricultural land has been used, whether the proposal allows for continued agricultural use and/or encourages biodiversity improvements around arrays. Other issues for consideration include glare, the need for security such as fencing, mitigation through native screening and the energy generating potential. The NPPG notes that in "the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero."

The National Policy Statement for Energy confirms that, in addition to applying to nationally significant schemes, it is likely to be a material consideration in determining planning applications under the 1990 Planning Act. The Statement recognises that landscape and visual impact will be the key issues requiring mitigation for large scale energy schemes. The NPS also stresses the urgency for provision of new energy development to contribute towards a "secure, diverse and affordable energy supply" and to support action on climate change.

The Government's UK Solar PV Strategy Part 1 and 2 is supportive of large scale solar PV projects whilst stating that decision makers should ensure proposals are appropriately sited, give proper weight to environmental considerations such as landscape and visual impact, heritage and

local amenity, and provide opportunities for local communities to influence decisions that affect them.

Policy GEN21 of the Arun District Local Plan states that planning permission will be granted for renewable energy developments subject to a number of criteria, including no significant adverse impacts on natural and built environments, residential amenity, public safety and ensuring that they make a contribution to meeting a need. The NPPF at para 98 recognises that even small-scale projects such as this one provide a valuable contribution to cutting greenhouse gas emissions.

Because the site is located in an area designated as Countryside, outside the built up area boundary policy GEN3 precludes development such as this unless one of five criteria is met. One of them diversification of the rural economy is considered to be met in the case of this application. Given that national and local policies are supportive in principle of renewable energy schemes, and that these contribute to meeting the UK's target to reduce greenhouse gas emissions, the proposed solar farm is considered acceptable in principle.

VISUAL IMPACT AND LANDSCAPE CONSIDERATIONS

The development would introduce new buildings, fencing, and solar panels into undeveloped countryside. As a result, it would inevitably have an impact particularly on local views. A Landscape and Visual Impact Assessment has been assessed by the Council's Greenspace department.

The solar park will not be a prominent feature in the landscape due to its low height, site coverage topography which means the panels are in a dip. The nearby public rights of way will have a partial view of the proposal but it is mainly obscured by existing trees and shrubs. Residential properties are set significantly far away to not have a direct view of the proposal and its visual impact is further reduced by the establishment of new hedgerow and tree planting along the perimeter boundary to the south and some in-fill planting to other boundaries. Indicative details of planting has been submitted and is considered acceptable but a more detailed landscaping scheme reflecting this, will be required as a commencement condition. The applicant has agreed to the inclusion of this condition.

Although there are significant nearby listed buildings (including Barnham Court and Parish Church which are Grade I listed) that could afford views towards the solar park, the distance of over 400m away, the bank of the remains of the canal and existing vegetation and proposed native species vegetation limit this impact and will make it very difficult to discern. Following consultation with the Council's Historic Buildings Officer they have no objection to the proposal with the inclusion of a condition for further native species planting to be included, details of this have been submitted. Historic England had no objection to the proposal other than a concern about the 3m CCTV pole. It is not considered the pole is significant enough in size or would produce light to have an impact on the listed buildings. Any proposed lighting is restricted by the lighting condition for bats which means permission is required for further lighting. It would be obscured by existing vegetation to the east which is more than 3m high. Thus the effect on the visual amenity of the area, setting of the listed buildings and remains of Portsmouth and Arundel canal, will not be compromised and the historic setting of Barnham will not be adversely affected.

The solar farm will be sited outside the built up area boundary. Given the nature of the proposal

and the low and acceptable visual impact of the scheme, it is considered to respect the character of the countryside.

It is therefore considered that the proposal will have an acceptable impact on this valuable landscape though details of the proposed landscaping are required through conditions.

RESIDENTIAL AMENITY CONSIDERATIONS

The low height of the structures (maximum height of the solar panels is 2.4m, 3.4m for the switchgear container), the existing trees around the canal and boundaries, dip in the site and the proposed perimeter landscaping will mean that there will be no unacceptable impact on the residential amenities of neighbouring residents. Properties are more than 300m away. Environmental Health have raised no objection so it is not considered there will be a detrimental noise impact given the distance. A condition will be attached to control what lighting is installed on the site.

LOSS OF AGRICULTURAL LAND

Paragraph 112 of the NPPF aims to safeguard the Best and Most Versatile agricultural land (grades 1 to 3a) from inappropriate development, i.e. development unrelated to agricultural or forestry, unless there is a strong case in support of development that overrides protection.

The applicants claim the land is used as agricultural grassland and research shows it is classified as Grade 3. Grade 1 land is classified as being of excellent quality and Grade 5 land of very poor quality. It is considered that this land does not fall into the Best and Most Versatile (BMV) agricultural land and the proposal is compliant with policy.

BIODIVERSITY CONSIDERATIONS

A Phase 1 Habitat Survey has been undertaken in support of this application and concluded that the application site comprises entirely of species/pasture considered to be of some ecological value.

The development proposals should be seen as an enhancement in ecological terms through provision of new hedgerow planting and species rich grassland, which in turn would provide significantly enhanced opportunities for bats, birds and invertebrates.

A Badger sett has been confirmed as being present in the area and the stock fencing will have mammal gates for badgers and other mammals to forage in the field for their usual food sources. The Ecologist is pleased to see the incorporation of mammal gates within the boundary fencing.

A buffer zone is to be included around the badger sett and that the applicant would require a licence from Natural England should the sett be disturbed during construction. This will be ensured via condition requiring the submitted Extended Phase One Habitat Survey recommendations to be followed.

A lighting condition will be included to prevent detrimental impact on bats.

No works to trees or vegetation form part of the proposal so it is not considered nesting birds will

be disturbed.

Via condition a management plan will be required (once the development is complete) to be agreed with an ecologist and the land over to manage the annual growth of wildflowers and the development of scrub.

Given proposed conditions it is not considered that the proposal will harm wildlife or reduce biodiversity in the area and will actually be an opportunity to enhance wildlife.

FLOODING

The site is within Flood Zone 3 and considered high risk, it is also located near a pond and river tributary to the north. A small part of the north section falls within the Lidsey catchment area.

There was an initial objection from the Environment Agency with regards to the low height of the panels, as such the application was amended to increase the lower height of the panels to 1.3m in line with their requirements. A condition will be included to ensure the FRA is followed and the heights of the panels are ensured. WSCC Flood Risk requested a condition requiring details of surface water drainage design and a pre-commencement condition for full details of maintenance and management of the SUDs system. This condition is considered unreasonable as very little hard surface is being created and the panels will be piled directly into the ground.

An informative regarding development within 5m of any watercourse will be included as advised by WSCC Flood Risk even though the proposal does not show any works within 5m of the tributary to the north of the site.

Given the site is high risk and within the Lindsey Catchment Area it is considered acceptable to include the pre-commencement surface drainage condition (regarding water courses and culvert access) recommended by the drainage engineer. The proposal is considered to have a limited impact on flood risk.

HIGHWAYS AND ACCESS

Following a submission of an amended Construction Traffic Management Plan, WSCC Highways no longer have concerns regarding the routing and highways issues for construction traffic. A condition will be included requiring the vehicle parking and turning spaces to be complete before the site becomes operational. This condition is considered reasonable as a small amount of maintenance visits will be required for the farm. An informative will also be included regarding a Section 59 Agreement to be made with the Highways Authority regarding extra-ordinary traffic.

The issue outstanding in highways terms is how the construction traffic will use the lane and Public Right of Way. The applicant is happy for a pre-commencement condition to be included requesting these details and will be included. Should this condition be discharged and followed, it is not considered that the construction of the development will have a detrimental impact on the public right of way or its users.

CONCLUSION AND RECOMMENDATION

The proposal would generate energy, helping to address climate change and to reduce

greenhouse gas emissions meaning there are significant environmental benefits.

Regarding landscape and visual impact, the mitigation is acceptable and this can be secured via condition notwithstanding the fact that the development impact would in any event be reversible. Whilst the proposal by its nature will inevitably have an impact to some degree on the countryside and nearby listed buildings, this will not be so significant that a refusal of the application would be justified as the proposal complies with national requirements.

There are no grounds to object to the scheme from an ecological, highways and access or drainage perspective whilst the proposal will not cause significant harm to residential amenity.

Although the proposal is considered to have some, limited detrimental impact on the historic setting of Barnham Court, the remains of the Chichester and Arundel Canal and other nearby listed buildings, the harm caused is to be less than substantial. Considerable importance and weight is though duly given to the impact on heritage assets. As indicated by para 134 of the NPPF, the Council must weigh even less than substantial harm against the public benefits of the proposal. In this case the economic, social and particularly the environmental benefits of the proposal will outweigh the limited impact on the nearby heritage assets.

In light of the above, the application is recommended for conditional approval.

HUMAN RIGHTS ACT

FOR APPROVAL

Human Rights Act:

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts (negative, Neutral or positive) have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal is considered to have a neutral impact.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

2768_11
2768_LF_500
2768_05
2768_06
2768_07
2768_08
2768_09
2768_10

2768_LF_100 A
2768_03 D
2768_04 Rev A

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN3, GEN7 of the Arun District Local Plan.

- 3 The development layout shall not be agreed until such time that arrangements for the future access and maintenance of any watercourse or culvert (piped watercourse) crossing or abutting the site has been submitted and approved in writing by the Local Planning Authority.

No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities of any watercourse on or adjacent to the site.

Reason: To ensure that the duties and responsibilities, as required under the Land Drainage Act 1991, and amended by the Flood and Water Management Act 2010, can be fulfilled without additional impediment following the development completion.

- 4 The planning permission hereby granted is for a period from the date of this decision until the date occurring 25 years after the date of commencement of the generation of electricity. Written notification of the date of commencement shall be given to the Local Planning Authority no later than 14 days after the event.

Reason: For the avoidance of doubt and in the interests of the long term amenity and the environment in accordance with Policy GEN7 the Arun District Local Plan.

- 5 No later than 12 months prior to the end of this permission, a site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of works to remove the solar panels, all related

equipment, and any areas of hardstanding and shall be fully implemented within 12 months of the expiry of this permission.

Reason: To protect the long term visual amenities of the surrounding area and in order that the Local Planning Authority may be satisfied as to the appearance of the land after the removal of the development in accordance with policy GEN7 of the Arun District Local Plan.

- 6 If any of the individual solar panels ceases to export electricity to the grid for a continuous period of 12 months then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months from the end of the 12 month period for the removal of the solar panel(s) and associated equipment and the restoration of (that part of) the site to agricultural use. The approved scheme of restoration shall then be fully implemented within 6 months of that written approval being given.

Reason: To protect the long term visual amenities of the surrounding area and in order that the Local Planning Authority may be satisfied as to the appearance of the land after the removal of the development in accordance with policy GEN7 of the Arun District Local Plan.

- 7 The development shall be carried out in full accordance with the recommended measures set out in the Extended Phase 1 Habitat Survey of BL Solar Limited July 2015 submitted in support of the application.

Reason: In the interest of conservation and enhancement of local biodiversity, in accordance with policy GEN29 of the Arun District Local Plan and paragraph 118 of the NPPF.

- 8 Access to the site shall be from Church Lane only, in accordance with detailed plans to be submitted to and approved by the Local Planning Authority after consultation with the Highway Authority prior to commencement of works on site. The submission must outline how the public right of way which runs across the north of the site shall be used for access. Thereafter, it shall be retained for its intended purpose.

Reason - To ensure fit-for-purpose access constructed to appropriate design and safety standards and to control traffic movements in and out of the development site in accordance with policy GEN7 of the Arun District Local Plan. The condition is required to be pre-commencement as to prevent blocking of the public right of way and danger and disruption to it's users.

- 9 The proposal must be constructed in compliance with the approved CTMP (Construction and Traffic Management Plan) TPBR0111 at all times throughout the entire construction period.

Reason: To ensure fit-for-purpose access constructed to appropriate design and safety standards and to control traffic movements in and out of the development site in accordance with policy GEN7 of the Arun District Local Plan.

- 10 No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The scheme should also minimise potential impacts to any bats using the trees, hedgerows and

buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the area, the site biodiversity (particularly in respect of bats) and to minimise unnecessary light spillage outside the development site in accordance with Policies GEN7, GEN29 & GEN33 of the Arun District Local Plan.

- 11 Following the completion of the development, a management plan must be created with the assistance of an ecologist to manage the annual growth of wildflowers and the development of scrub. The management plan should then be followed in perpetuity.

Reason: In the interests of the amenities of the area, the site biodiversity in accordance with Policies GEN7, GEN29 & GEN33 of the Arun District Local Plan.

- 12 The development hereby approved shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Ref: ICBR0039_FRA with drawings 2768_04 Rev A and 2768_03 D and the following mitigation measures detailed within:

-drawing 2768_04 Rev A, the lower edge of the panels should be no lower than 1.3m above existing ground level (2.3m Above Ordnance Datum (AOD)). This is in line with the flood level of the 1 in 100 year plus climate change (1% Annual Exceedance Probability plus 20% allowance for climate change).

Reason

To prevent flooding elsewhere by ensuring no net loss of floodplain storage and ensuring flood flows are not impeded by the solar panel structures. To reduce the risk of flooding to the development and subsequent in accordance with policy GEN11 of the Arun District Local Plan.

- 13 No development shall take place until there has been submitted to, and approved by, the Local Planning Authority, a landscaping scheme including details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.'

Reason: In the interests of amenity and of the environment of the development in accordance with policy GEN7 of the Arun District Local Plan.

- 14 INFORMATIVE: Section 59 of the 1980 Highways Act - Extra-ordinary Traffic

The applicant is advised to enter into a Section 59 Agreement under the 1980 Highways Act, to cover the increase in extraordinary traffic that would result from construction vehicles and to enable the recovery of costs of any potential damage that may result to the public highway as a direct consequence of the construction traffic. The Applicant is advised to contact the Asset Management Officer (01243 642105) in order to commence

this process.

- 15 **INFORMATIVE:** A 20m buffer should be put in place around the active badger sett and no works should take place within this area, fencing should be used to ensure this area remains undisturbed. If any works need to be undertaken within 30m of the sett then a licence from Natural England would be required. If it is not possible for the buffer to be put in place then mitigation would be required and a Licence from Natural England would be required to remove the sett. If this is the case the Council would require that a mitigation strategy for Badgers is submitted for approval prior to continuation of work on site.
- 16 **INFORMATIVE:** No development should take place within 5m of any ordinary watercourse. If works are undertaken within, under, over or up to an Ordinary Watercourse, even if this is temporary, an Ordinary Watercourse Consent (OWC) may need to be applied for from the District Council.
- 17 **INFORMATIVE:** A precautionary approach should be taken within the site area with regards to reptiles. The grass should continue to be cut regularly so reptile habitat doesn't develop. Any dead wood, or rubble piles should be dismantled by hand and relocated
- 18 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 19 **INFORMATIVE:** The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.
- 20 **INFORMATIVE:** This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.