

# Report

## Planning Committee

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### Part 1

Date: 22 October 2015

Item No: 3

**Subject** **Planning Application Schedule – Site Visit**

**Purpose** To make decisions on items presented on the attached Schedule.

**Author** Development Services Manager

**Ward** As indicated on the schedule

**Summary** Attached is a Planning Application Schedule, detailing those applications requiring a site visit, as recommended by Planning Committee on 14 October, 2015. The Planning Committee will visit the sites, listed in the attached schedule, in order to gain a better understanding of the proposal/case so that a decision can be made.

**Proposal** **1. To visit the application sites detailed in the attached Schedule.**  
**2. To make decisions in respect of the Planning Application Schedule attached.**

**Action by** Planning Committee

**Timetable** Immediate

The Officer recommendations detailed in this report are made following consultation with local residents, Members and statutory consultees as set out in the Council's approved policy on planning consultation and in accordance with legal requirements.

## Protocol

1. A Planning Protocol for Planning Sub-Committee site visits was approved by Council on 08 April 2008 and amended in February 2013.
2. A Sub-Committee of the Planning Committee will be constituted for the purposes of undertaking site visits on behalf of the Planning Committee. It will be known as the Planning Site Sub-Committee.
3. The Planning Site Sub-Committee shall comprise of six named Councillors of the Planning Committee. Rules of political balance as set down in the Local Government and Housing Act 1989 will apply.
4. A site visit by the full Planning Committee may be undertaken in lieu of the Planning Site Sub-Committee if the scale or sensitivity of the development merits such consideration. The decision to undertake a full Planning Committee visit lies with that Committee.

## Purpose of Site Inspections

5. Site inspections by the Planning Site Sub-Committee or full Planning Committee will be undertaken for the following purposes:
  - fact find;
  - investigate specific issues raised in any request for a site inspection;
  - investigate issues arising from the Planning Committee presentation or discussion;
  - enable the Planning Committee/ Site Sub-Committee to make decisions.

## Requests for Site Inspections

6. Any member of the Council may request that a planning application site be visited by the Planning Site Sub-Committee prior to the determination of that application. Such requests must be made in writing [e-mail is sufficient] to the named case officer dealing with the application or the Development Services Manager. Any such request must include specific reasons for the visit.
7. Applications subject to a request for a visit will be reported to the Planning Committee. The report will include details of the request and the reasons given. Planning Committee will decide, following a full presentation of the application, whether or not a site visits is necessary to inform the decision making process.
8. Where no request for a site visit has been made members of the Planning Committee may decide during consideration of an application that a site inspection would be beneficial. The reasons for the visit should be agreed and recorded as part of the minute of the meeting.
9. Occasionally there will be circumstances when timescales for determination will not allow site visits to be programmed in the normal way eg those related to telecommunications development. In such **exceptional circumstances**, at the discretion of the Chairman and Vice-Chairman of the Planning Committee, a site visit may be undertaken prior to the presentation of the matter to the Planning Committee. **As Members of the Sub-Committee will not have received a formal presentation on the application a recommendation cannot be given.** They will be able to report their findings of fact to the Planning Committee. Members should make their written request, with reasons, in the normal way. All other aspects of the protocol will apply.

## Attendance at Planning Committee/Site Sub-Committee Visits

10. Attendance at Planning/ Site Sub-Committee visits is to be restricted as follows:

- Members of the Planning Site Sub-Committee;
- Relevant Officers;
- Ward Councillors;
- Single representative of the Community Council [if relevant];
- Applicant/Agent to allow access to the site;
- Neighbour/other Landowner [where access is required to make any assessment].

## **Representations at Planning/ Site Sub-Committee Visits**

11. A site visit is not an opportunity to lobby on an application. Accordingly, no representations may be made to the Planning Site Sub-Committee by any party. Members of the Sub-Committee may ask questions of those present to establish matters of fact and inform their consideration of the application.

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## **Background**

The reports contained in this schedule assess the proposed development or the unauthorised development against relevant planning policy and other material planning considerations, and take into consideration all consultation responses received. Each report concludes with an Officer Recommendation.

The purpose of the attached reports and associated Officer presentation to the Committee is to allow the Planning Site Sub Committee to make a decision on each application in the attached schedule having weighed up the various material planning considerations.

The decisions made are expected to benefit the City and its communities by allowing good quality development in the right locations and resisting inappropriate or poor quality development in the wrong locations.

Applications can be granted subject to planning conditions. Conditions must meet all of the following criteria:

- Necessary;
- Relevant to planning legislation (i.e. a planning consideration);
- Relevant to the proposed development in question;
- Precise;
- Enforceable; and
- Reasonable in all other respects.

Applications can be granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). This secures planning obligations to offset the impacts of the proposed development. However, in order for these planning obligations to be lawful, they must meet all of the following criteria:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The applicant has a statutory right of appeal against the refusal of permission in most cases. There is no third party right of appeal against a decision.

Where formal enforcement action is taken, the recipient of the Notice has a statutory right of appeal in most cases. There is no third party right of appeal against a decision with the exception of High Hedge Remedial Notices. Appeals are normally lodged with the Planning Inspectorate at the Welsh Assembly Government, with the exception of Section 215 Unsightly Land Notices, for which appeals are heard by the Magistrates' Court. Non-compliance with a statutory Notice is a criminal offence against which prosecution proceedings may be sought. The maximum level of fine and/or sentence that can be imposed by the Courts depends upon the type of Notice issued.

Work is carried out by existing staff and there are no staffing issues. It is sometimes necessary to employ a Barrister to act on the Council's behalf in defending decisions at planning appeals. This cost is met by existing budgets. Where the Planning Committee or Planning Site Sub Committee refuses an application against Officer advice, Members will be required to assist in defending their decision at appeal.

Where applicable as planning considerations, specific issues relating to sustainability and environmental issues, equalities impact and crime prevention impact of each proposed development are addressed in the relevant report in the attached schedule.

### **Financial Summary:**

The cost of determining planning applications, taking enforcement action, carrying out Committee site visits and defending decisions at any subsequent appeal is met by existing budgets and partially offset by statutory planning application fees. Costs can be awarded against the Council at an appeal if the Council has acted unreasonably and/or cannot defend its decisions. Similarly, costs can be awarded in the Council's favour if an appellant has acted unreasonably and/or cannot substantiate their grounds of appeal.

In the case of Section 215 Unsightly Land Notices, an appeal is lodged with the Magistrates' Court and the Council will seek to recover all its costs in relation to all such appeals.

In the case of Stop Notices, compensation can be awarded against the Council if it is demonstrated that the breach of planning control alleged has not occurred as a matter of fact, the breach is immune from enforcement action due to the passage of time, or the activities/development have already been granted planning permission.

### **Risks:**

Four risks are identified in relating to the determination of planning applications by Planning Committee or Planning Site Sub Committee: decisions being overturned at appeal; appeals being lodged for failing to determine applications within the statutory time period; and judicial review.

An appeal can be lodged by the applicant if permission is refused or if conditions are imposed. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

An appeal can also be lodged by the applicant if the application is not determined within the statutory time period. However, with the type of major development being presented to the Planning Committee, which often requires a Section 106 agreement, it is unlikely that the application will be determined within the statutory time period. Appeals against non-determination are rare due to the further delay in receiving an appeal decision: it is generally quicker for applicants to wait for the Planning Authority to determine the application. Costs could only be awarded against the Council if it is found to have acted unreasonably. Determination of an application would only be delayed for good reason, such as resolving an objection or negotiating improvements or Section 106 contributions, and so the risk of a costs award is low.

An appeal can be lodged by any recipient of a formal Notice, with the exception of a Breach of Condition Notice. Costs can be awarded against the Council if decisions cannot be defended as reasonable, or if it

behaves unreasonably during the appeal process, for example by not submitting required documents within required timescales. Conversely, costs can be awarded in the Council's favour if the appellant cannot defend their argument or behaves unreasonably.

If a Stop Notice is issued, compensation can be awarded against the Council if it is demonstrated that the breach of planning control alleged has not occurred as a matter of fact, the breach is immune from enforcement action due to the passage of time, or the activities/development has already been granted planning permission. Legal advice is sought before taking such action, and a cost-benefit analysis is undertaken to fully assess the proposed course of action.

A decision can be challenged in the Courts via a judicial review where an interested party is dissatisfied with the way the planning system has worked or how a Council has made a planning decision. A judicial review can be lodged if a decision has been made without taking into account a relevant planning consideration, if a decision is made taking into account an irrelevant consideration, or if the decision is irrational or perverse. If the Council loses the judicial review, it is at risk of having to pay the claimant's full costs in bringing the challenge, in addition to the Council's own costs in defending its decision. In the event of a successful challenge, the planning permission would normally be quashed and remitted back to the Council for reconsideration. If the Council wins, its costs would normally be met by the claimant who brought the unsuccessful challenge. Defending judicial reviews involves considerable officer time, legal advice, and instructing a barrister, and is a very expensive process. In addition to the financial implications, the Council's reputation may be harmed.

Mitigation measures to reduce risk are detailed in the table below. The probability of these risks occurring is considered to be low due to the mitigation measures, however the costs associated with a public inquiry and judicial review can be high.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Decisions challenged at appeal and costs awarded against the Council.	M	L	<p>Ensure reasons for refusal or reasons for taking enforcement action can be defended at appeal.</p> <p>Ensure planning conditions imposed meet the tests set out in Circular 35/95.</p> <p>Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.</p>	<p>Planning Committee</p> <p>Planning Committee</p> <p>Development Services Manager and Senior Legal Officer</p>
Appeal lodged against non-determination, with costs awarded against the Council	M	L	Avoid delaying the determination of applications unreasonably.	Development Services Manager
Judicial review successful with costs awarded against the	H	L	Ensure sound and rational decisions are made.	<p>Planning Committee</p> <p>Development Services</p>

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Council				Manager
Compensation awarded in relation to a Stop Notice	M	L	Provide guidance to Planning Committee regarding relevant material planning considerations, conditions and reasons for refusal.	Development Services Manager and Senior Legal Officer

\* Taking account of proposed mitigation measures

### Links to Council Policies and Priorities

The Council's Corporate Plan 2012-2017 identifies five corporate aims: being a Caring City; a Fairer City; A Learning and Working City; A Greener and Healthier City; and a Safer City. Key priority outcomes include ensuring people live in sustainable communities; enabling people to lead independent lives; ensuring decisions are fair; improving the life-chances of children and young people; creating a strong and confident local economy; improving the attractiveness of the City; promoting environmental sustainability; ensuring people live in safe and inclusive communities; and making Newport a vibrant and welcoming place to visit and enjoy.

Through development management decisions, good quality development is encouraged and the wrong development in the wrong places is resisted. Planning decisions can therefore contribute directly and indirectly to these priority outcomes by helping to deliver sustainable communities and affordable housing; allowing adaptations to allow people to remain in their homes; improving energy efficiency standards; securing appropriate Planning Contributions to offset the demands of new development to enable the expansion and improvement of our schools and leisure facilities; enabling economic recovery, tourism and job creation; tackling dangerous structures and unsightly land and buildings; bringing empty properties back into use; and ensuring high quality 'place-making'.

The Corporate Plan links to other strategies and plans, the main ones being:

- Single Integrated Plan;
- Local Development Plan 2011-2026 (Adopted January 2015);

The Newport Single Integrated Plan (SIP) is the defining statement of strategic planning intent for the next 3 years. It identifies key priorities for improving the City. Its vision is: "*Working together to create a proud and prosperous City with opportunities for all*"

The Single Integrated Plan has six priority themes, which are:

- Skills and Work
- Economic Opportunity
- Health and Wellbeing
- Safe and Cohesive Communities
- City Centre
- Alcohol and Substance Misuse

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 all planning applications must be determined in accordance with the Newport Unitary Development Plan (Adopted May 2006) unless material considerations indicate otherwise. Planning decisions are therefore based primarily on this core Council policy.

### Options available

- 1) To determine applications in accordance with the Officer recommendation (with amendments to or additional conditions or reasons for refusal if appropriate);
- 2) To determine that applications be granted or refused against the Officer recommendation (in which case the Committee/Site Inspection Sub-Committee's recommendation and reasoning should be clearly minuted);

With regards to enforcement cases:

- 1) To determine that enforcement action is taken (or no further action is taken) in accordance with the Officer recommendation (with amendments to or additional requirements or reasons for taking formal action if appropriate);
- 2) To determine that a different course of action be taken to that recommended by Officers (in which case the Site Inspection Sub-Committee's recommendation and reasoning should be clearly minuted).

## **Comments of Chief Financial Officer**

In the normal course of events, there should be no specific financial implications arising from the determination of planning applications.

There is always a risk of a planning decision being challenged at appeal. This is especially the case where the Committee makes a decision contrary to the advice of Planning Officers or where in making its decision, the Committee takes into account matters which are not relevant planning considerations. These costs can be very considerable, especially where the planning application concerned is large or complex or the appeal process is likely to be protracted.

Members of the Planning Committee should be mindful that the costs of defending appeals and any award of costs against the Council following a successful appeal must be met by the taxpayers of Newport.

There is no provision in the Council's budget for such costs and as such, compensating savings in services would be required to offset any such costs that were incurred as a result of a successful appeal.

## **Comments of Monitoring Officer**

Planning Committee are required to have regard to the Officer advice and recommendations set out in the Application Schedule, the relevant planning policy context and all other material planning considerations. If Members are minded not to accept the Officer recommendation, then they must have sustainable planning reasons for their decisions.

### **Local issues**

Ward Members were notified of planning applications in accordance with the Council's adopted policy on planning consultation. Any comments made regarding a specific planning application are recorded in the report in the attached schedule

## **Equalities Impact Assessment**

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging

people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

An Equality Impact Assessment for delivery of the Development Management service has been completed and can be viewed on the Council's website.

## **Children and Families (Wales) Measure**

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

## **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

## **Background Papers**

### **NATIONAL POLICY**

Planning Policy Wales (PPW) Edition 7 (July 2014)

Minerals Planning Policy Wales (December 2000)

#### *PPW Technical Advice Notes (TAN):*

TAN 1: Joint Housing Land Availability Studies (2006)

TAN 2: Planning and Affordable Housing (2006)

TAN 3: Simplified Planning Zones (1996)

TAN 4: Retailing and Town Centres (1996)

TAN 5: Nature Conservation and Planning (2009)

TAN 6: Planning for Sustainable Rural Communities (2010)

TAN 7: Outdoor Advertisement Control (1996)

TAN 8: Renewable Energy (2005)

TAN 9: Enforcement of Planning Control (1997)

TAN 10: Tree Preservation Orders (1997)

TAN 11: Noise (1997)

TAN 12: Design (2014)

TAN 13: Tourism (1997)

TAN 14: Coastal Planning (1998)

TAN 15: Development and Flood Risk (2004)

TAN 16: Sport, Recreation and Open Space (2009)

TAN 18: Transport (2007)

TAN 19: Telecommunications (2002)

TAN 20: The Welsh Language: Unitary Development Plans and Planning Control (2013)

TAN 21: Waste (2014)

TAN 23: Economic Development (2014)

Minerals Technical Advice Note (MTAN) Wales 1: Aggregates (30 March 2004)

Minerals Technical Advice Note (MTAN) Wales 2: Coal (20 January 2009)

Welsh Government Circular 016/2014 on planning conditions

### **LOCAL POLICY**

Newport Local Development Plan (LDP) 2011-2026 (Adopted January 2015)

Supplementary Planning Guidance (SPGs):



Affordable Housing (adopted August 2015)  
Archaeology & Archaeologically Sensitive Areas (adopted August 2015)  
Flat Conversions (adopted August 2015)  
House Extensions and Domestic Outbuildings (adopted August 2015)  
Houses in Multiple Occupation (HMOs) (adopted August 2015)  
New dwellings (adopted August 2015)  
Parking Standards (adopted August 2015)  
Planning Obligations (adopted August 2015)  
Security Measures for Shop Fronts and Commercial Premises (adopted August 2015)  
Wildlife and Development (adopted August 2015)

## **OTHER**

The Colliers International Retail Study (July 2010) is not adopted policy but is a material consideration in making planning decisions.

The Economic Development Strategy is a material planning consideration.

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended by the Town and Country Planning (Environmental Impact Assessment) (Amendment) (Wales) Regulations 2008 are relevant to the recommendations made.

Other documents and plans relevant to specific planning applications are detailed at the end of each application report in the attached schedule

## **APPLICATION DETAILS**

**No:** 14/0337      **Ward:** MARSHFIELD  
**Type:** FULL (MAJOR)  
**Expiry Date:** 18-JUN-2015  
**Applicant:** EEW ECO ENERGY WORLD LTD  
**Site:** LAND NORTH OF AND ADJACENT TO M4, BEGAN ROAD, CARDIFF

**Proposal:** **INSTALLATION OF A GROUND MOUNTED PHOTOVOLTAIC (SOLAR ELECTRICITY) PLANT (4.85MW), INCLUDING THE ERECTION OF TRANSFORMERS AND OTHER ANCILLARY EQUIPMENT, TRACKS, DRAINAGE, FENCING, CCTV, LANDSCAPING AND ALL ASSOCIATED BUILDING AND ENGINEERING OPERATIONS, FOR USE FOR A PERIOD OF UP TO 25 YEARS AFFECTING PUBLIC RIGHTS OF WAY 400/61, 400/62 AND 400/63. AMENDMENT TO ORIGINAL PROPOSAL, COMPRISING A REDUCTION IN SITE AREA AND AMENDMENT TO PROPOSED ACCESS POINT.**

**Recommendation: GRANTED WITH CONDITIONS**

### **1. INTRODUCTION**

- 1.1 **The application was presented to Planning Committee on the 14<sup>th</sup> October 2015 when it was resolved that the application be deferred for a Full Committee Site Inspection on 22<sup>nd</sup> October 2015.**
- 1.2 This application seeks consent for a solar farm of up to 4.85 megawatts on land at Fairwater Farm. The scale of the development has been reduced from 18.5 megawatts and a reduction from 45 ha to 17.5 ha which is largely due to the removal of high grade agricultural land category 1,2 and 3a. The site is located wholly on grade 3b land. The application straddles the boundary of Newport and Cardiff, 14 hectares falls within the boundary of Newport City Council and 3.5ha falls within the boundary of Cardiff City Council. It is located to the north of the M4 Motorway and east of Began Road. Following a reduction in the site of the site, the public rights of way which crossed the previous application site, are located to the east of the application site some 500m away.
- 1.3 The application site would consist of five parcels of land; 4 in Newport and 1 in Cardiff. It is sited some 600m south west of Fairwater Farm. The fields are separated by hedgerows and face in a southerly direction. The solar array is proposed on low lying land. A portion of the site, to the western edge, falls within flood risk zone C1. The remainder of the site, to the east, lies within zone A. No trees and hedgerows are proposed to be removed as part of the proposal. The proposal would have an operational lifespan of 25 years. Following this period of time the development will be decommissioned.
- 1.4 The application would entail
  - The creation of an access point on Began Road, to facilitate access to the site for construction vehicles and construction workers.
  - The installation of 19,400 no. 250kW solar panels, each measuring 1650mm x 992mm, which would be orientated to the south at a fixed angle of 33 degrees. Across the majority of the site the maximum height of the panels when installed would be 2.68m; on that part of the site within flood Zones B and C1, the maximum height would be 2.91m. The panels would be mounted on a metal framework supported on steel posts, which would be driven into the ground to a maximum depth of approximately 1.7m.
  - The construction of 5 transformers, each measuring 4.57m long x 2.38m wide x 2.20m high and, alongside them, inverter cabins, each measuring 2.562m long x 0.956m wide x 2.272m high.

- The construction of a switchroom (in part for the District Network Operator) measuring 4.76m long x 2.66m wide x 2.48m high.
- The panels would be connected to the inverters and sub-stations by underground cables installed in 0.8m wide trenches to a maximum depth of 1.2m.
- The installation of a security fence, 2.4m high, dark green in colour, around the perimeter of the development with gates.
- The plant would not be illuminated, but would be protected by CCTV cameras mounted on poles.
- The construction of access tracks and drainage swales.
- Hedgerow and buffer planting at selected locations.
- The plant would be connected to the National Grid. The connection would be by means of a 33kV single circuit to the St Mellons primary sub-station.

1.5 The site is located within open countryside as designated within the Local Development Plan. The western portion of the site falls within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15. The application is accompanied by landscape appraisal, ecological assessment, flood consequence assessment and a traffic management plan.

1.6 As stated, the area of the site has been reduced substantially from the original submission, it was considered acceptable in this instance, to allow the application to be amended rather than requiring a resubmission. Once the amended scheme was received a full consultation exercise took place which included all neighbours who had commented on the original scheme.

**2. RELEVANT SITE HISTORY**

91/0175	Construction of 27 hole golf course and erection of club house 27 bed hotel extendible to 50 bedrooms and leisure development (including swimming pool restaurants and ancillary development)	Granted with conditions
92/0166	Construction of golf clubhouse 47 bed hotel and leisure development including demolition of existing buildings new access road and associated car parking and landscaping	Granted with conditions
99/1049	Renewal of planning permission 92/0166/f for construction of golf clubhouse 47 bed hotel and leisure development including demolition of existing buildings new access road and associated car parking and landscaping	Refused
08/1362	Variation of standard time condition to extend time period for commencement of development relating to planning permission 02/0921 for golf clubhouse, car park	Refused

	and access road affecting public footpath 400/61, 400/62 and 400/63	
13/1072	Screening opinion in relation to proposed solar farm	EIA not required.

### 3. POLICY CONTEXT

#### 3.1 PLANNING POLICY WALES (EDITION 7) JULY 2014

Paragraph 4.10.1 - In the case of agricultural land, land of grades 1, 2 and 3a of the Department for Environment, Food and Rural Affairs (DEFRA) Agricultural Land Classification system (ALC) is the best and most versatile, and should be conserved as a finite resource for the future. In development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

Paragraph 12.8.1 - The UK is subject to the requirements of the EU Renewable Energy Directive. These include a UK target of 15% of energy from renewables by 2020. The UK Renewable Energy Roadmap sets the path for the delivery of these targets, promoting renewable energy to reduce global warming and to secure future energy supplies. The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of our approach to tackling climate change whilst enhancing the economic, social and environmental wellbeing of the people and communities of Wales in order to achieve a better quality of life for our own and future generations. This is outlined in the Welsh Government's Energy Policy Statement *Energy Wales: A Low Carbon Transition* (2012).

Paragraph 12.8.6 - The Welsh Government's aim is to secure an appropriate mix of energy provision for Wales which maximises benefits to our economy and communities, whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.

Paragraph 12.8.8 - The Welsh Government is committed to using the planning system to:

- optimise renewable energy generation;
- optimise low carbon energy generation;
- facilitate combined heat and power systems (and combined cooling, heat and power) where feasible; and
- recognise that the benefits of renewable energy are part of the overall commitment to tackle climate change by reducing greenhouse gas emissions as well as increasing energy security.

Paragraph 12.8.9 - Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. Specifically, they should make positive provision by:

- considering the contribution that their area can make towards developing and facilitating renewable and low carbon energy, and ensuring that development plan policies enable this contribution to be delivered;

- ensuring that development management decisions are consistent with national and international climate change obligations, including contributions to renewable energy targets and aspirations.

Paragraph 12.8.10 - At the same time, local planning authorities should:

- ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed;
- ensure that mitigation measures are required for potential detrimental effects on local communities whilst ensuring that the potential impact on economic viability is given full consideration.

Paragraph 12.10.1 - In determining applications for renewable and low carbon energy development and associated infrastructure local planning authorities should take into account:

- the contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy, including the contribution to cutting greenhouse gas emissions;
- the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development;
- the impact on the natural heritage, the Coast and the Historic Environment;
- the need to minimise impacts on local communities to safeguard quality of life for existing and future generations;
- ways to avoid, mitigate or compensate identified adverse impacts;
- the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so consider whether measures to adapt to climate change impacts give rise to additional impacts;
- grid connection issues where renewable (electricity) energy developments are proposed; and
- the capacity of and effects on the transportation network relating to the construction and operation of the proposal.

Paragraph 12.10.3 - Developers for renewable and low carbon energy developments should seek to avoid or where possible minimise adverse impacts through careful consideration of location, scale, design and other measures.

## 3.2 Technical Advice Note 6

3.2.1 Paragraph 6.2.1 - When preparing development plans and considering planning applications, planning authorities should consider the quality of agricultural land and other agricultural factors and seek to minimise any adverse affects on the environment.

3.2.2 Paragraph 6.2.2 - Planning authorities should bear in mind that, once land is built on, the restoration of semi-natural and natural habitats and landscape features is rarely possible and usually expensive, and archaeological and historic features cannot be replaced. Also, once

agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as best and most versatile agricultural land is seldom practicable.

- 3.2.3 Paragraph 6.2.3 - Agricultural land is classified by grades according to the extent to which its physical or chemical characteristics impose long term limitations on agricultural use for food production. There are 5 grades of land numbered 1 to 5, with grade 3 divided into two sub-grades. The best and most versatile land falls into grades 1, 2 and sub-grade 3a and is the most flexible, productive and efficient in response to inputs.
- 3.2.4 Paragraph 6.2.4 - The Agricultural Land Classification (ALC) map for Wales is published at a scale of 1:250,000. This map is produced for use in strategic planning and provides only a generalised indication of the distribution of land quality. The map is not suitable for use in evaluating individual sites. In such cases a resurvey at a larger scale is necessary to obtain a definitive grade.
- 3.2.5 Paragraph 6.2.5 - The nature of other development and its proximity to farms can influence the type of farming and the extent to which inherent land quality can be exploited. Certain locations may have agricultural advantages such as accessibility to markets, processing plant and certain industries associated with agriculture. Farms with development close to them tend to suffer from trespass and other forms of disturbance which may affect the efficiency and upkeep of holdings. It may be possible to reduce any detrimental effects of development by locating compatible uses adjacent to farm land, by landscaping or by detailed provision of amenity space and green corridors in the layout of residential development. Technical Advice Note 6: Planning for Sustainable Rural Communities 32
- 3.2.6 Paragraph 6.2.6 - Farms vary considerably in size, type of farm business and layout. The loss of part of a holding can have important implications for the remainder. The effect of severance and fragmentation upon the farm and its structure may be relevant.
- 3.3 Technical Advice Note 8 – Planning for Renewable Energy (July 2005)
  - 3.3.1 Paragraph 2.16 - Experience has shown that there are opportunities to achieve community benefits through major wind farm development. Some benefits can be justified as mitigation of development impacts through the planning process. In addition, developers may offer benefits not directly related to the planning process. Annex B provides further information and examples about the types of community benefit which have been provided. Local planning authorities, where reasonably practical, should facilitate and encourage such proposals. The Welsh Development Agency, and others can support and advise on community involvement in developing renewable energy and benefiting from it. Local planning authorities should make clear in their development plans the scope of possible "planning contributions". However, such contributions should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.
  - 3.3.2 Paragraph 3.15 - Other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermal and PV systems should be supported.
  - 3.3.4 Annex B of TAN 8
    - Paragraph 2.1 - It is perfectly acceptable for a business to enter into a legally binding agreement with third parties to deliver particular and agreed benefits to the community. Many local planning authorities would be more comfortable with this approach as it separates, more clearly, community benefits from the planning decision. It is important that the developer is able to identify suitable local representative people or organisations with whom it can negotiate. If there are funds to be administered then an appropriately constituted and regulated body must be identified or created.

3.4 Practice Guidance – Planning Implications of Renewable Energy and Low Carbon Energy (February 2011)

Paragraph 8.4.16 - In view of the national policy support for farm diversification and the relatively large area of land required for solar PV arrays it is likely that a significant proportion of proposals for solar PV arrays will be on agricultural land. Both the use of natural resources (such as high quality agricultural land) and the reversibility of a development are factors in determining if EIA is required.

Paragraph 8.4.17 - In addition to avoiding the best and most versatile agricultural land, other possible mitigation includes taking steps to enhance the reversibility of the development (e.g. by use of removable mats rather than permanent access tracks and use of ground screws rather than buried concrete foundations to anchor solar arrays) and avoiding soil compaction or contamination during construction and maintenance.

3.5 Technical Advice Note 15 (Development and Flood Risk) July 2004

3.6 NEWPORT LOCAL DEVELOPMENT PLAN 2011-2026 (ADOPTED JANUARY 2015 the following policies are relevant:

Policy SP1 Proposals will be required to make a positive contribution to sustainable development by concentrating development in sustainable locations on brownfield land within the settlement boundary. they will be assessed as to their potential contribution to:

- ii) the reuse of previously developed land and empty properties in preference to greenfield sites;
- iv) reducing energy consumption, increasing energy efficiency and the use of low and zero carbon energy sources.

Policy SP3 development shall be directed away from flood risk areas and will only be permitted in accordance with national guidance and where appropriate detailed technical assessment will be required to ensure that the development is designed to cope with the threat and consequences of flooding over its lifetime. Sustainable solutions to manage flood risk should be prioritised.

Policy SP5 development in the countryside (that is, that area of land lying beyond the settlement boundaries shown on the proposal and inset maps) will only be permitted where the use is appropriate in the countryside, respects the landscape character and biodiversity of the immediate and surrounding area and is appropriate in scale and design. Housing development, rural diversification and rural enterprise uses, beyond settlement boundaries, will only be appropriate where they comply with national planning policy.

Policy SP21 The plan will fulfil its contribution to the regional demand by:

- i) safeguarding hardrock and sand & gravel resource blocks

Policy GP1 Development proposals should:

- l) be designed to minimise energy requirements and incorporate appropriate renewable, low or zero carbon energy sources, including on-site energy provision where practicable;

Policy GP2 Development will be permitted where, as applicable:

- i) there will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
- ii) the proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;

Policy GP3 Development will be permitted where, as applicable:

- i) necessary and appropriate service infrastructure either exists or can be provided;

Policy GP5 Development will be permitted where, as applicable:

- ii) the proposals demonstrate how they avoid, or mitigate and compensate negative impacts to biodiversity, ensuring that there are no significant

adverse effects on areas of nature conservation interest including international, European, national, Welsh Section 4233 and local protected habitats and species, and protecting features of importance for ecology;

v) there would be no unacceptable impact on landscape quality;

Policy GP6 Good quality design will be sought in all forms of development. the aim is to create a safe, accessible, attractive and convenient environment. in considering development proposals the following fundamental design principles should be addressed:

- i) context of the site: all development should be sensitive to the unique qualities of the site and respond positively to the character of the area;
- iv) scale and form of development: new development should appropriately reflect the scale of adjacent townscape. care should be taken to avoid over-scaled development;

Policy GP7 Development will not be permitted which would cause or result in unacceptable harm to health because of land contamination, dust, instability or subsidence, air, heat, noise or light pollution, flooding, water pollution, or any other identified risk to environment, local amenity or public health and safety.

Policy CE10 Small scale micro-generation will be encouraged within the settlement boundary. Large scale proposals may be more appropriately located outside of the defined settlement boundary if no appropriate brownfield sites exist

Policy T7 Any public footpath, bridleway or cycleway affected by development proposals will require retention or the provision of a suitable alternative. Provision of additional routes, where appropriate, will be sought in new developments, with linkages to the existing network.

#### 4. CONSULTATIONS

4.1 WELSH GOVERNMENT LAND DIVISION: No objection on the basis that the proposal area is wholly Agricultural Land Classification Grade 3b agricultural land and as such no longer in conflict with Welsh Government planning policy towards the conservation of Best Most Versatile land (paragraph 4.10.1, PPW).

This part of the consultation response is confined to matters of technical detail and does not relate to the merits or otherwise of the application.

In summary the proposals clearly outlines the intention to undertake construction in accordance with the appropriate standards and practices. Sections 3.7 and 3.9 respectively of the Revised Planning Statement and Design and Access Statement (March 2015) give the commitment to provide and follow an approved Construction Method Statement and a Restoration Plan. These documents are an important part in ensuring that the impact of any works is minimised; bullet 4 of S3.9 gives the clear intention of reinstating the land to full agricultural use.

##### **Array Posts:**

*S4.2 Soil displacement will be limited.*

*S4.3 No soil is moved and the posts are rammed in.*

On removing driven (rammed) posts any residual compaction should be alleviated by plough or harrowing operations on restoration. The subsoils have a high degree of clay content according to WG physical inspection and the Kernon ALC Report; therefore I would expect the posts to be secure without the need for concrete shoes.

Any disturbance to agricultural field drainage will need to be considered in construction and decommissioning.

##### **Ground Works:**

*S4.6 More substantial ground works to accommodate the transformers & inverters.*

*S4.7 Cabling in buried trenches, gates, fences, tracks and turning area required.*

*S4.10 Concrete bases broken up and topsoil pushed back.*

Thought will need to be given to the disturbance from soil movement, construction and decommissioning.

Cables: It is not clear whether cabling will be buried in stone armouring. Soil handling and storage may be an important element in restoring cable areas – stripping the soil profiles separately and replacing in the correct order. If stone armouring is used then construction and



decommissioning should look to avoid contaminating soil profiles with stone and storing excess subsoil material as a result of additional volume.

Concrete bases:

- Bases are to be broken up and topsoil is to be pushed back over. It is important to map where topsoil stores are at the time of construction. Experience has shown that over an extended period of time these soil stores can be lost or forgotten about, especially with changes in personnel.
- The bases will be concrete over subsoil. When broken up, the concrete should be removed and subsoil compaction relieved; this is particularly important on this site due to their heavy clay nature. Addressing compaction will assist with drainage.

Tracks & Turning Areas: The construction of these require similar considerations. Topsoil should be stripped, stored and mapped and every effort made to reduce the impact on the subsoil. On decommissioning, any hard standing or membranes should be removed, subsoil compaction addressed and topsoil replaced.

Any disturbance to agricultural field drainage will need to be considered in construction and decommissioning. The initial decommissioning statement is considered to be acceptable.

**Impact:**

Some form of disturbance will occur during construction and decommission and the impact on land quality is uncertain. Proper planning is required to minimise any adverse impacts.

**Further Guidance:** Defra and previously MAFF have produced a number of documents on soil handling (stripping, storage and replacement) and mineral reclamation which gives a good overview of why it is important handle soils properly and what agricultural issues are faced when disturbing soils.

#### 4.2 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST

The revised desk based assessment by White Young Green, suggests that given the nature of the proposed development works it is unlikely that any other archaeological features would be impacted upon and therefore no further mitigation is required in the remainder of the development site, a proposal with which we do not concur.

As such it is our professional opinion that an archaeological programme of work should be submitted and implemented in order to mitigate the impact of the proposed development on the archaeological resource. We therefore strongly recommend that a condition, requiring that the applicant should submit a detailed written scheme of investigation for the implementation of a programme of work, should be attached to any consent granted by your Members.

We envisage that this programme of work will detail those areas of the proposed development where service trenching is to be located (the excavation of these having the highest potential to encounter archaeology) and the method by which this trenching will be archaeologically monitored and any archaeology encountered subsequently recorded. We recommend that the condition should be worded in a manner similar to the model given in Welsh Office Circular 60/96, Section 23:

The applicant must therefore employ an archaeologist to undertake the work and meet the requirements of the condition.

- #### 4.3 NATURAL RESOURCES WALES:
- In summary, providing our advice is addressed through the implementation of appropriate conditions attached to any planning permission, NRW does not object to the proposal as submitted. The majority of the proposed development site lies within Zone A with it being partially within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Flood Map information, which is updated on a quarterly basis, confirms part of the site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability tidal flood outlines of the River Rhymney, which is a designated main river. Our historic flood maps also indicate that flooding has occurred locally along the Western Boundary adjacent to Began Road during December 1979.

The planning application proposes a Ground Mounted Photovoltaic (Solar Electricity) Plant with associated infrastructure (less vulnerable development) which is partially located within a flood

risk area. Section 6 of TAN15 requires your Authority to determine whether the development at this location is justified. We refer you to TAN15 for these considerations. I refer you in particular to the justification tests at section 6.2. As part of this justification, the applicant should undertake and submit a Flood Consequence Assessment (FCA) prior to determination of the application that meets the criteria set out in TAN15. We should then be asked for advice on this assessment in accordance with TAN15. The purpose of the FCA is to ensure that all parties, including your Authority, are aware of the risks to and from the development, and ensure that if practicable, appropriate controls can be incorporated in a planning permission to manage the risks and consequences of flooding.

The FCA produced by FMW Consultancy, Reference FMW1325/Issue 2 dated 25<sup>th</sup> February 2014 and amended in September 2015 confirms the following.

1. The majority of the site is located within Zone A with part of its western extent being within Zone C1.
2. Only the flood resistant framed solar panels and access tracks are proposed to be located within the lower western extent i.e. River Rhymney Floodplain. The main access into the site is not located within the floodplain.
3. The solar panels will be generally raised above ground levels by at least 830mm and within flood risk areas at 500mm above the 1% (1 in 100 year) plus climate change flood level. Some areas of the site have been identified to flood up to a depth of 600mm where the lower edges of the solar panels will be 1.1 metres above ground levels in the affected areas.
4. The existing site is mainly surrounded by hedgerows which are considered to provide a sufficient barrier to prevent large fluvial debris from the River Rhymney from entering the site. The likelihood of blockage occurring to the support frames is therefore low and will not increase flood levels within the area.
5. The proposed changes in land use and ground cover with the new solar panels and infrastructure will generally produce less surface water runoff and/or maintain the existing rates. Flooding from this source will not be increased elsewhere.
6. The surface water drainage strategy will be guided by current industry best practice i.e. CIRIA C697 The SUDS Manual.
7. A SUDS treatment train (two stages) will be required for the management of surface water runoff which will comprise:
  - roadside drains/ditches with check dams to reduce velocities and allow sediment settlement.
  - swales placed downstream of the drains to collect runoff for infiltration and storage.
8. Calculations have been undertaken to establish the storage volumes required using a 1% (1 in 100 year) plus 30% climate change rainfall event. No additional surface water runoff from the proposed development will be generated up to and including this design event.
9. The 1 in 1 year Greenfield runoff rate from the site will be 13.87 litres/sec (Appendix 1 of the FCA). We have checked this figure which equates to a runoff rate of 5.25 litres/sec/hectare based on an impermeable area of 2.64 hectares. Our calculations have established a figure of 4.5 litres/sec/hectare, which is not too dissimilar to the consultants estimate. Bearing in mind that the minimum flow from a site of 5 litres/sec is recognised and referred to in the Greenfield runoff summary table of Appendix 1, we have no adverse comments to make regarding the proposed rates.

Taking the above into consideration, the proposed development, as submitted, will only be acceptable if the following measures as detailed in the Flood Consequences Assessment (FCA) submitted with this application are implemented and secured by way of a planning condition on

any planning permission.

1 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Consequences Assessment (FCA) produced by FMW Consultancy, Reference FMW1325/Issue 2 dated 25<sup>th</sup> February 2014, and amended in September 2015 and the following mitigation measures detailed within the FCA:

2 The thresholds of the transformer and inverter stations and solar panel units must be set to a level of at least 500mm above the design 1% (1 in 100 year) plus climate change flood level. (Sections 5.2, 8.21, 9.11 and 9.14 of the FCA)

Reason To reduce the risk of flooding to the components and associated infrastructure within the development

A condition is imposed to ensure that a scheme to dispose of surface water is submitted to and approved in writing by your Authority, advise that any proposed scheme should ensure that runoff from the proposed development is reduced or will not exceed existing runoff rates. Details of adoption and management should also be submitted to ensure that the scheme/systems remain effective for the lifetime of the development.

#### Informative

The watercourse known as the River Rhymney is scheduled as a statutory main river, pursuant to the Water Resources Act 1991 and Natural Resources Wales Land Drainage Byelaws. The prior formal Flood Defence Consent of Natural Resources Wales must be obtained for any works in, under or over the watercourse, or within 7 metres of the landward toe of any flood bank or wall, or where there is no bank or wall, within 7 metres of the top of the riverbank.

Section 23 of the Land Drainage Act 1991 states that the prior formal consent of the Lead Local Flood Authority is required for the erection of any mill dam, weir or other like obstruction to the flow of an ordinary watercourse or raise or otherwise alter such an obstruction; or erect any culvert that would be likely to affect the flow of any ordinary watercourse, or alter any culvert in a manner that would be likely to affect any such flow.

The responsibility for the maintenance and good order of all watercourses and structures thereon rests, in the first instance, with the riparian owner. Land Drainage legislation does not seek to remove this responsibility.

**EUROPEAN PROTECTED SPECIES** have reviewed the information provided in the report Michaelston y Fedw Solar Farm, Extended Phase 1 Habitat Survey dated March 2014 prepared by White Young Green Planning and Environment and note that suitable habitat for bats, great-crested newts, and dormice, is considered present on site. As you are aware, these species are European Protected Species under the Conservation of Habitats and Species Regulations 2010 (as amended). They are aware of dormice using habitats immediately adjacent to the application site and therefore consider that this species is highly likely to be present in hedgerow and woodland habitats across the site. We welcome the recommendations made in Section 5 of the above report. In particular, we welcome the following commitments:

- the retention of trees, hedgerows, wet and dry ditch habitats, and areas of woodland;
- the protection of retained habitat in line with best practice guidance during construction;
- the enhancement of habitats on site to reinforce habitat connectivity into the wider area (using native species of local provenance);
- the implementation of a Habitats Management Plan for all retained and created habitat to ensure suitable management to create a net biodiversity gain;
- the retention of adjacent farm buildings which may have the potential to support bat species; and
- no lighting to be installed on site.

we ask that the above commitments are addressed by planning condition attached to any permission granted.

- 4.4 DWR CYMRU WELSH WATER: Public sewers cross the site and no development shall be carried out within 6m either side of the centre line of the sewer. No surface water or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

- 4.5 CARDIFF INTERNATIONAL AIRPORT: No response.
- 4.6 ARCHITECTURAL LIAISON OFFICER: No objections.
- 4.7 GWENT WILDLIFE TRUST: We are supportive of the following measures:
- Production of a habitat management plan (for the operational lifetime plus decommissioning as a minimum)
  - Provision of badger gates within fencing
  - Eradication of Himalayan balsam

Whilst the Extended Phase 1 Habitat Survey states that woodland, hedgerow, ditch and trees will be buffered from the security fence and solar panels, it is not clear whether this is from the dripline or base of the trees. Some of the woodland areas directly adjacent to the development are classified as Ancient Woodland (ASNW) within the Landscape and Visual Impact Assessment. These woodlands require extra protection because of their rarity and sensitive nature. Current recommendations are that buffers for ASNW should be between 15 and 30m, as guided by NRW. No mention is made of the access roads and maintenance areas, and how close to ecological features these will be. Presumably the access roads will need to cross ditches and hedges, and it is not clear whether there are existing crossings and gates or if new ones are to be created. New crossings and gates would have implications for habitats and protected species such as dormice.

It is also unclear where new planting is to take place. Whilst we are supportive of this measure in general, details of location, area and species to be used would be useful in evaluating the overall impact of the development on local biodiversity.

We recommend that you discuss this case with your in house ecologist and National Resources Wales.

- 4.8 SENIOR FIRE PREVENTION OFFICER: The developer should consider the need for the provision of:-
- a. adequate water supplies on the site for firefighting purposes; and
  - b. access for emergency firefighting appliances.
- 4.9 SOUTH AND EAST AMBULANCE DIVISION: No response.
- 4.10 NEWPORT ACCESS GROUP: No response.
- 4.11 WELSH GOVERNMENT TRANSPORT: All deliveries are by Heavy Goods Vehicles via junction 28 of the M4 and would not be significant when measured against existing background levels. No objections. The following comments have been made on close inspection of the site and landscape conditions against the details provided within section 5.3 which considers Glint and Glare of the amended Landscape and Visual Appraisal report. The site is sufficiently set back from a length of the M4 that is partly shielded by landscaping and has few if any junctions along the length adjacent to the site. As the panels are also designed to absorb maximum sunlight there are not considered to be significant highway impacts. Therefore reiterate that they have no objection and are satisfied that the installation can operate without significant impacts to the M4.
- 4.12 WALES AND WEST UTILITIES: There is no apparatus in the area.

## **5. INTERNAL COUNCIL ADVICE**

- 5.1 HEAD OF STREET SCENE AND CITY SERVICES (FOOTPATHS OFFICER): Due to the reduction in site area there are now no PROW's directly affected by this proposal. It seems that, following the resubmission, the only negative impact the proposal could have upon the PROW's listed is relating to the likely reduction of viewing enjoyment for its users. However, I must emphasise the point that the PROW's must not be closed off or obstructed in any way (including

during any construction works) without a formal temporary closure or temporary diversion order being applied for and granted in advance. The PROW's must be clear and available for public use at all times.

- 5.2 HEAD OF STREET SCENE AND CITY SERVICES (LANDSCAPE OFFICER): Due to the reduction in site area there is no objection to the proposal.
- 5.3 HEAD OF STREET SCENE AND CITY SERVICES (HIGHWAYS): Subject to my previous comments, which required a construction and traffic management plan be secured via condition, I would offer no objection to the amended proposal.
- 5.4 HEAD OF STREET SCENE AND CITY SERVICES (ECOLOGY OFFICER): No objections, agree with the recommendations made within the Extended Phase 1 Survey. The Habitat Management Plan will need to be submitted and agreed with NCC Ecology Officer prior to commencement of works. This will need to be conditioned if you are minded to grant planning permission. The badger gates will need to be monitored to see if they are being used for a period of at least 5 years.
- 5.5 HEAD OF STREET SCENE AND CITY SERVICES (TREE OFFICER): No objection.
- 5.6 HEAD OF STREET SCENE AND CITY SERVICES (DRAINAGE OFFICER): No objection.
- 5.7 HEAD OF LAW AND REGULATORY SERVICES( NOISE): no objection to the proposals, however the following condition should be attached to any permission granted; The rating level of the noise emitted from fixed plant and equipment located at the site shall not give rise to an adverse impact at any premises used for residential purposes when measured and corrected in accordance with BS 4142: 2014.  
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.  
Additionally, an advisory note re:  
Construction Hours – Non-Piling
- 5.8 HEAD OF REGENERATION, INVESTMENT AND HOUSING (PLANNING POLICY): Policy comments provided in relation to the sequential analysis on available brown field land, consider the analysis to be acceptable.

There is an explicit in principle support for renewable energy development within Planning Policy. The Renewable energy policy framework in Wales is not set in isolation and as such the proposal must comply with any other relevant policies. There are uncertainties and a lack of detail to form a definitive view on the application and therefore the Planning Policy Team would provide an objection to an application. In order to remove the objection, we would need to be satisfied that:

- There are no alternative locations which would either be brownfield in nature or impact on lower valued agricultural land;
- There will be a reduction/redesign of the CCTV installations;
- The ecological, highways and landscape impact are considered appropriate.

The above issues will all need to be investigated and robust justification supplied to evidence the suitability of the approach proposed.

## 6. REPRESENTATIONS

### 6.1 NEIGHBOURS:

All properties within 100m of the application site ( and residents who had commented on the original application) were consulted ( 87 properties), a site notice displayed and a press notice published in South Wales Argus. 1 letter of support

106 Letters of objection were received on the following grounds. :

- Why give good agricultural land currently growing crops and needed, according to your new LDP, to feed an increasing population in Newport. Bringing in replacement food from outside the area negates any benefit from green energy.
  - Green energy projects are having a cumulative impact on this community. We already have two solar farms and two wind turbines. Enough is enough.
  - Access to the proposed site is via a route not suited to heavy plant traffic. There are several single passage only stretches and we already have coaches each school day going back and forth to the Farm Park opposite my house and on the same route as this application.
  - Drivers on the M4 could be distracted by the solar panels and any reflection from them is likely to cause accidents.
  - The generation of green power should not be on green field sites. The whole point of green energy is to preserve our valuable countryside and the ecological balance. These projects should be directed on to brown field sites in SE Wales.
  - the proposal is not part of the local development and believes that all applications should be considered as part of the local development plan unless other material considerations indicate The proposal is so large and the solar panels when viewed will affect the openness of the area The proposal is for temporary structures 25 years is not temporary
  - will cause soil erosion in heavy rainfall resulting in flooding.
  - whilst not in the green belt, the land is agricultural land and would be out of character with the area, the panels should be placed on brown field land /roof spaces such as school roofs.
  - people have bought houses in the countryside, which will be taken away from them if development goes ahead
  - impact upon habitats and local wildlife
  - maintenance of the panels will impact upon residents
  - the proposal is so large that it will dominate the visual impact of the area
  - the panels are large as is the proposed fence which will affect the openness of the area
  - fire risk concerned about emergency services being able to access the site.
- 
- development is proposed on a green belt which should be kept free of such developments.
  - the proposal does not provide the social/economic benefits to the local community
  - significant traffic problems during construction
  - screening would not be effective for many years
  - application appears to be on land where previous applications for golf courses have been attempted.
  - solar panel dumping ground
  - it will destroy the amenity value of the area
  - no returns for the disruption and destruction of the area that will be caused
  - the local scenery is an asset that should be protected
  - fields should be used for growing crops and grazing
  - the development is out of character with the area
  - the site is within best most versatile land which should be reserved for agriculture
  - distraction of road users (M4) due to the reflection, glint from the panels
  - access to the site is not well suited to heavy plant
  - no objection to solar farms per se but should be more suitably located
  - green fields should be protected for local generations
  - set a precedent for other sites to be used
  - impact upon the heritage aspects of the area
  - concern about recycling as panels have to be disposed of and will cause irreversible damage to the countryside
  - reflection and glare from panels will affect local residents be able to use gardens in safety
  - concerned that heavy rainfall will cause soil erosion increase risks to flooding in the area
  - increase traffic resulting in safety risks
  - the panels would cause noise affecting residents opportunity to enjoy a peaceful countryside
  - concern about health risks as many solar panels contain chemicals which could cause damage to the local environment including the water supply
  - panels are close to properties and would impact upon privacy as workman maintain the panels

- as a former residents of Michaelstone Y fedw and new visitor over 50 years there has been a progressive attrition of rural qualities introduction of pylons, major roads , three renewable energy development 2 turbines and solar farm
- if the development is allowed in would be a further step along the road towards converting the area from rural and agriculture to urban fringe
- affect the views from footpaths
- cumulative impact of industrialisation
- unsightly provision of cctv cameras
- concern about depreciation of property values
- development which does not preserve the countryside should not permitted
- no consultation with residents
- impact upon the natural drainage of the area
- Fairwater Farm has been used for growing food crops for years, this is what farming is meant to be about.
- Neighbouring farm owners have been approached by energy firms and despite difficult times do not want to go down this route
- permission has been granted for a golf course and hotel which has not yet been built .
- If this land is tainted in this way it will be lost for future generations.
- Request a Public meeting.
- Concern about the impact upon public rights of way, query the future of these in this area.
- Concern that due to the lifetime of the development, their usefulness could be superseded by other technologies.
- Reliance is upon the developer to maintain and clear the site. What if it is sold foreign companies would be responsible for the maintenance and clearance.
- Partly proposed on north facing slopes, how will this work?
- land will only be possible for grazing purposes.
- noise and visibility from the transmitting station.
- How does it connect to St Mellons.
- Refer to an appeal decision in England which was dismissed due to visual impact.
- My family currently enjoy from our home is one of a beautiful rural aspect made up of ancient woodlands, a patchwork of fields and hedgerows sloping upwards towards the M4 motorway. As the assessment states, this view is highly sensitive and a change from this rural aspect to a built environment, that this development will resemble, will not, as the assessment concludes only be “moderately adverse” to my amenity and enjoyment of the landscape. We will have to look at this view every day for the next 25years, in complete contrast to those which we now enjoy, and which were instrumental in our decision to buy the property in 1999.
- All of the photographs were taken during the month of June, at the height of summer when all of the trees and hedgerows which are almost exclusively deciduous, were in full bloom. The hedgerows are in this state for no more than four months of the year, for the remainder of the time they are bare and would offer little or no screening value for the development. As the proposal makes great issue of the fact that hedgerows will be bolstered by the planting of ‘native’ species of shrubs and trees then they too will be bare for most of the year and therefore offer little or no screening value.
- The solar panels are 3m high, elevated further where the land rises up, how on earth can new planting mature in time in order to screen the view, by the time the trees have matured the 25 years will be at an end. The majority of the other photographs were taken from a long distance away, again at the height of summer making the visual impact seem less intrusive than it is for those of us living close to the development and who have to live with its effects for the entire 25 years, day in day out.
- loss for 25 years of high grade arable farming land which, has for generations produced an abundance of crops. This production should surely be promoted in order to reduce the import of such crops and the reduction in our carbon footprint.
- The Newport Development Plans policy on Renewable energy also states that “development of such schemes will only be encouraged where this is for the specific benefit of the rural economy.”

Again I see no benefit for the local rural economy. It also states that such schemes will only be granted if “no significant adverse effects on the environment and the amenities of local residents by the scale and appearance of the development.” Well looking out over 45 hectares of grey slabs where there was once green fields is in my opinion more than ‘significant’

-At odds with national policy a scheme of this scale cannot be viewed as minimising environmental impacts.

-safety of users of the highway .

- Concerned about the inclination of the council to enforce landscaping schemes based on previous performance.

- loss of privacy from CCTV cameras.

-reduce separation between Newport and Cardiff

-Concerned about affects on health from high voltage power lines

-Challenge aspects of the transport statement and consider that HGV will not easily manoeuvre around the proposed access route which in some instances comprises narrower lanes than stated. Happy to demonstrate movements of a HGV if required.

1 letter of support from the landowner:

-It is essential to find sustainable uses for farmland. The family has struggled to make Fairwater Farm make it pay its way. Given the quality and topography of the land , traditional agricultural uses are not viable, need to find new uses to safeguard this as an agricultural business for future generations. The plans would also benefit the wider community.

-A temporary 25 year use for solar generation is in itself a sustainable energy source and is in particular a renewable energy source that is much needed.

-Use of solar power is less detrimental upon the landscape than mines or turbines.

-Views of the site would be mitigated for and traffic will be regulated during construction.

-Create employment for the area.

-Sensitive to concerns of neighbours and the community. Is confident that the plans can be delivered in such a way that is respectful to the wider environment. Reassured that the technical reports address local concerns raised.

-Despite the controversy, considers that this is a good and appropriate use of land.

-Keep us Rural have made extensive comments in relation to the proposal. Their comments highlight the local opposition to the scheme. Concerns are raised with regard to The sequential tests; The visual impact.; The temporary nature of this development; Flooding, runoff and soil erosion; Cumulative impact.; The availability of grid connections. They are strong supporters of renewable energy, but it has to be the right technology in the right place. Consider the following:-

-The world's largest solar farm (550Mw) is located in California. It is in the desert, so land quality is not an issue and neither is visual impact. This area receives on average 315 days of sun per year, and each Mw of panels installed produces well over what can be achieved in the UK. The UK is just not the best area for them.

- In Wales we have an ideal opportunity to generate a massive amount of electricity utilising tidal energy. A tidal lagoon will shortly be constructed near Swansea and there are plans for more around Wales. In particular we should look at the one between Cardiff and Newport, and the one just east of Newport. Construction of these lagoons will be a huge engineering project but, when complete, the one between Cardiff and Newport will generate sufficient power for the whole of Wales by itself. The lagoons have a design life of 120 years. Let us look to the future and support these applications. We do not need solar farms, we need land for crops that can feed the nation.

-The proposed site is surrounded by, and attaching to land classified as Best and Most Versatile ('BMV') land. BMV is a very finite resource with only 7% of Welsh land classified with BMV status. Defra state the BMV classification is based on the long term physical limitations of the land for agricultural use. The applicant has not proven that land of a lower grade is unavailable. In terms of brown field sites

- The site proposed covers an area which crosses the boundary between Cardiff and Newport however, the applicant's sequential test has completely failed to explore **any** potential alternative more suitable sites in Cardiff. With regard to sites in Newport, disagree with the assessment of



the sites that are available and consider that the sequential test provided by the applicant is wholly inadequate.

- Michaelston-y-Fedw has existing renewable developments which imposes upon the landscape and views. Walkers visiting the area have commented on the industrialisation of our landscape.
- Fairwater Farm in isolation, it can be seen that the proposed solar panels north of the M4 motorway will become a distraction at the very least for drivers using the M4 particularly with regard to glint and glare. Residents living along Began Road will have their current rural view of a field replaced with a view of the rear of the panels Irrevocable industrialisation of the countryside in the form of introducing solar panels, will lead to a reduction in countryside pursuits such as walkers and visitors to the Farm Park as the area becomes less attractive.
- Reference is made to The WEEE Directive 2012/19/EU (published 24 July 2012) introduced a provision on the disposal of Photovoltaic ('PV') modules placed on the European market. For the U.K. PV market, the regulations require all importers of PV panels into the U.K. to register with a Product Compliance
- No company or individual has undertaken nor demonstrated its ability to take full financial responsibility as required by law for the future dismantling and decommissioning of this technical installation.
- Concerned about dramatic run-off from farmland and will not only result in renewed flooding but also in irrevocable soil erosion
- No regard is given to the issue that the proposed development might *cause* flooding off site, down the slope, in the areas with existing flood risk.
- The community currently has renewable energy projects developed within the vicinity and has another solar farm currently being constructed
- The cumulative impact of granting this application on top of others is strong enough by itself to recommend refusal
- In our view the decommissioning statement fails the requirement for the development to be deemed "temporary and reversible.
- how successful the removal of the metal piles will be. In soil, and in air corrosion of these piles is normally negligible. However, corrosion at soil level is predictably more severe.
- What happens to the metal piles, which, weakened by corrosion, break at ground level during removal? No procedures are listed in the statement for unforeseen events of this nature.
- It does not document the present state of the land, by means of detailed photographs and other "permanent" records. Who, after 25 years will be in a position to direct operations without the necessary "data" for restoration?

6.2 COMMUNITY COUNCIL Michaelston-y-Fedw Community Council strongly oppose the proposed development of a solar farm at Fairwater Farm (planning application 14/0337) in what is open countryside with high grade agricultural land. Our objections will include, but not limited to the Visual Impact of the Development and Safety on the M4.

Further response on behalf of the community council:

- it is recognised that the scheme has been amended and reduced in scale but remain opposed to the development and their previous objections still stand. The scheme is considered to remain unacceptable it is an intrusion into the countryside and the cumulative effect of all these energy proposals in the locality are considered to be unacceptable. The village already has two large wind turbines nearby and further proposals are in the pipeline.

- This is a tranquil rural area which has already been damaged by other energy proposals. Whilst the principle of renewable energy is supported, the need to preserve the openness of the rural countryside surroundings by both Cardiff City and Newport Council.

- The proposal still entails the installation of 19,400 solar panels (each measuring 1650mm x 992mm) orientated to the south. In addition, transformers, inventor cabins & a switchboard would need to be installed. There is 2.4 metre high fence proposed and the extensive CCTV equipment. This would have an urbanising effect which cumulatively have a significant impact on the surrounding landscape. These are considered to be an unacceptable intrusion into the local rural environment.

-Protecting the local amenity is an important consideration and the views of the local community should be given weight in the determination of the planning application.

-Planning Policy in respect of renewable energy sources is set out in **Planning Policy Wales (PPW) and TAN 8** on renewable energy.

-PPW encourages local authorities to play their part in delivering energy programmes which contribute to reducing carbon emissions. Whilst the aim is to secure an appropriate mix of energy provisions, the advice requires decisions to minimise the environmental, social and economic impacts of such projects.

-local planning authorities should

ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed

ensure that mitigation measures are required for potential detrimental effects on local communities whilst ensuring that the potential impact on economic viability is given full consideration.

The following factors which local authorities should take into account when determining applications for renewable energy projects including:-

the need to minimise impacts on local communities to safeguard quality of life for existing and future generations.

ways to avoid, mitigate or compensate identified adverse impacts and

the capacity of and effects on the transportation network relating to the construction and operation of the proposal.

-The site falls partly within the administrative are of Newport City Council and partly within the Cardiff City Council area. Local planning policies for both areas therefore need to be considered.

-**Newport Local Development Plan** was adopted in January 2015. It identifies climate change and high energy consumption as issues which need to be addressed. **Strategic Policy SP1** seeks to reduce energy consumption and to increase energy efficiency and the use of low and zero carbon energy sources. **Policy CE10** gives favourable consideration to renewable energy schemes, subject to there being no overriding environmental and amenity considerations. In this instance it is considered that there are environmental and amenity objections to the proposal.

**-Renewable and Low Carbon Energy Assessment (May 2013)**

This report has been produced by Verco as a joint study for Torfaen County Borough Council and Newport City Council on behalf of the Carbon Trust in Wales. The purpose of the study is to provide an evidence base for the potential development of renewable and low carbon energy within the two local authorities, to examine the low carbon potential for strategic development sites and explore strategic leadership opportunities.

-**Chapter 12** states that there is a significant resource potential for land based solar PV systems across the authority. The coastal areas have the best level of irradiation, however all plots are 3km or more from the coast primarily due to ecological and agricultural constraints.

-Areas of the City Council's Administrative Area are identified as good potential for ground mounted solar PV arrays. Only land in agricultural grades 4 & 5 were included and then areas which suffered from constraints such as sites designated for their landscape, ecological or heritage value were excluded as were areas of common land. The application site is classed as **Grade 3b Agricultural Land**.

-Whilst, therefore, planning policy at both national and local level aim to encourage and support renewable energy schemes matters of detail need to be fully considered.

-In conclusion, it is considered that the proposal, albeit on a reduced scale, remains to be unacceptable. It will be an intrusion into the open countryside, is visually unacceptable and there are concerns with regards to the implications of traffic movements along the narrow country lanes, particularly during the construction phase.

-There are major concerns from the local community in relation to the proposed development. The cumulative impact of the other turbines and solar farms in the locality is considered to be unacceptable in this tranquil countryside location. On the basis of the above it is considered the proposal is unacceptable and should be rejected.

6.5 CAERPHILLY BOROUGH COUNCIL: Should consider the impact of the construction traffic by way of a construction management plan, noise from the transformer units and suggest that noise

details and the location of the transformer units be required. Details of construction noise and dust mitigation measures should also be approved. .

## ST MELLONS COMMUNITY COUNCIL

1. The site is grade 1, 2 and 3a agricultural land, Best and Most Versatile agricultural land (BMV) which national policy says should be protected from development.
2. Permitting such development would have an unacceptable effect on the nature and character of the area which is of successfully farmed arable land.
3. The impact on the landscape would be unacceptable. This is an area which is much valued for its countryside and setting for the citizens of Cardiff. It is an area which attracts ramblers, cyclists, horse riders and dog walkers. Near the site is Cefn Mably Farm Park which is visited by thousands of families each week. Families with children who come out of the city to visit the countryside.
4. The visual impact would be unacceptable from the surrounding ridges, with an unacceptable impact on the vista from the Cefn Mably and Ruperra areas which have grade one and two listed buildings.
5. There is an important safety issue for M4 traffic as the south facing panels will reflect sunlight causing dangerous glare for motorists. The panels would be situated on the north side of the motorway facing south.
6. The transformers would create a noise issue.
7. Access would be along the narrow single track lanes of Began Road and Druidstone Road. Lanes with banded hedgerows and no footways which will create additional traffic problems with heavy goods vehicles needing to access the site.

## 7. ASSESSMENT

- 7.1 The site forms part of Fairwater farm, 5 discrete parcels of land to the east section of the farm complex are proposed to be used. The site is located to the west of Began Road. The land is wholly within grade 3b agricultural land. The development does not propose any physical changes to the land in terms of earth removal and is fully reversible following decommissioning of the site which is proposed in 25 years time. The land is currently used for the growing of crops, the parcels are bordered by hedgerow and trees. It is proposed to retain all hedgerows and trees and additional hedge planting is proposed. A 2.8m high fence, coated green, would be erected around the perimeter of the site. Buffer zones are proposed which would separate the development from the existing hedgerow, the fence line would be 5m from any field margins, an access track runs around the inside of the fence line and the solar array would typically be sited 10m from the field margin. These access tracks would typically be grassed as they would generally be trafficked by light vehicles.
- 7.2 There are residential properties on Began Road close to the development. St Brannocks is located to the west of the site and is within 70m of its boundary. The land is fairly level at this point. The boundary between this property comprises mature hedgerow which helps screen the development. Other properties are sited further away (approximately 100m) and are located on the western boundary of Began Road. The existing hedgerow also helps screen views of the site. Afon Close is sited close to the proposed access point, the boundary of Began Road is densely vegetated at this point which again provides screening of the development. The properties of Pentrepoeth cottage, Nant-y-deri and the Wagonners are sited some 250m to the north of the development and whilst there is planting on their boundaries, the site would be visible. It is proposed to provide planting adjacent to the access road and along the northern perimeter of the site would in time help screen views of the development.
- 7.3 The development comprises three phases, the first phase being the construction period of the development which is anticipated to take 12 weeks with 30 construction workers involved. A new access into the site is proposed off Began Road approximately 1362m from Druidstone Road. This access will serve the proposed development. Vehicles will visit the site during this phase. A transport assessment has been submitted which states that HGV's will deliver the solar array, the

proposed route for this vehicles is via the M4 junction 28, along the A48, into Coal Pit Lane, along Druidstone Road and Began Road. It is estimated there would be over 68 HGV deliveries to the site, each HGV would carry approximately 540 panels, 19,400 panels are proposed, each String of panels would be mounted on frames of which it is estimated that there are 1,482. This equates to 1-3 HGV deliveries per day. The applicant has stated that construction work would be undertaken in accordance with appropriate standards and practices in accordance with a construction method statement which would need to be approved by the local planning authority and consider matters such as hours of operation, wheel washing, traffic management, protected species.

7.4 The premise of this use is that it is temporary and the land would be fully restored to its former condition. In terms of the actual construction, the access road would comprise a gravel surface akin to a farm track, the perimeter fence and gates would supported in posts which would be bedded into concrete. CCTV cameras are proposed at 50m intervals around the perimeter of the site at a height of 2.8m, the same height as the proposed fence, their posts would also be bedded in concrete. Solar panels , as described in S1.3, would be installed within the site, the metal framework supporting these panels would be either piled or screw driven into the ground. The panels base would be 1.1m above ground within the flood zone area and 0.8m above the ground else where, the overall height would be a maximum of 2.91m. the distance between the rows is typically 5m. The panels are connected to inverters, of which five are proposed, by underground cables which would be places in trenches 0.8m in width and 1.2m in depth. Five transformers and inverter houses are proposed within the development which are distributed throughout the site , outside of flood risk zone C1. The switchroom and `district Network Operator would be sited within the north eastern section of the site. These structures would sit on concrete foundations. The description of all these structures are included in S1.3 The structures would not exceed 2.5m in height and the applicant anticipates that these would be green in colour.

7.5 As stated the land is currently used for agricultural purposes and the growing of crops. Whilst this could not continue once the solar array would be in situ, it is proposed that the site could be used for the grazing of animals. The proposed use is for 25 years. The only works undertaken on the site during this period would relate to management and maintenance, including cleaning of the solar panels. Throughout the operational period, traffic flows to the site would be very low, comprising maintenance vehicles: it is estimated that two people using a 4x4 vehicle would visit the development once a month. During the operational period grazing of land within the site would continue. At the end of the operational life of the development, the plant would be decommissioned and the site restored in accordance with a Restoration Plan to be approved by the local planning authorities pursuant to a condition imposed on the grant of planning permission. The applicant has submitted an initial decommissioning statement which states that Restoration would entail:

- removal of the solar panels, mounting framework and their supports; much of the components consist of recyclable material and would be dismantled and recycled where possible.
- removal of the inverters, transformers and all other above ground infrastructure; the removal of all concrete foundations
- removal of the perimeter security fence and CCTV; and the concrete foundations
- the removal of all underground cabling
- reinstatement of the land to full agricultural use. The construction code of practice for the sustainable use of soils on construction sites will form the basis of the soil conservation.

The access track may remain in situ if the landowner considers this necessary. As this would be similar to any farm track, this is not considered to be inappropriate. A condition requiring final

details of decommissioning and restoration is suggested should the application be approved. Welsh Government land have indicated that the decommissioning Statement is adequate as an initial document.

#### 7.6 Policy

The policy context is set out in section 3 and generally encourages that local authorities to play their part in delivering energy programmes which contribute to reducing carbon emissions. Local Authorities should ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed; ensure that mitigation measures are required for potential detrimental effects on local communities whilst ensuring that the potential impact on economic viability is given full consideration.

The following factors which local authorities should take into account when determining applications for renewable energy projects includes:-

the need to minimise impacts on local communities to safeguard quality of life for existing and future generations.

ways to avoid, mitigate or compensate identified adverse impacts and the capacity of and effects on the transportation network relating to the construction and operation of the proposal.

#### 7.7 Sequential Assessment:

In terms of the brown field potential to accommodate the scheme Policy CE10 of the Newport Local Development Plan 2011 – 2026 (Adopted January 2015) states that large scale proposals may be more appropriately sited outside of the settlement boundary if no appropriate brown field sites exist. The applicant has submitted a sequential assessment which considers the site selection. The report states that: following site specific criteria are required for the successful implementation of this proposal;

-Site size (capability of accommodating circa 5MW of solar panels);

-Topography (flat or gently sloping site);

-Land availability and ownership;

-Capability of grid connection;

-Proximity to road network (A suitable location which is served by appropriate highway infrastructure);

-Local Development Plan and Policy consideration;

Landscape and Visual amenity Considerations;

-Avoidance of developing on BMV land/ Use of lower grade agricultural land

it concludes that :

Welsh Government have withdrawn their objection to the application on the basis that it now only comprises grade 3b land. The applicant sequential test acknowledges this fact and that is as far as is necessary , they need not look at lower grade land in this instance. Policy CE10 requires that brown field sites should be considered before a green field site is considered keep us rural refer to possible such sites in Cardiff and state that the applicant has failed to consider these. However policy CE10 is a policy of the Newport local plan and the applicant is only obliged to consider sites within its administrative boundary.

The proposed site falls entirely within Grade 3b agricultural land which is deemed as lower quality and therefore does not impact on the availability of Best and Most Versatile land in the wider locality. As demonstrated alternative sites in sufficient scale are not available or there are other identified constraints which mean that development on other land could not be realised. Whilst there is a choice between sites of Grades 1, 2 and 3a (BMV) in other areas, the Sequential Test has shown that the development has been directed to land of lower grading

The continued use of the land for agricultural purposes, the temporary nature of the planning permission and immediate availability of the site now without any available or suitable alternatives all support the grant of planning permission for the proposed development. The demonstrated practicality of restoring the land to productive agriculture at the conclusion of the

operational term is further evidence that the scheme complied with the requirements of PPW. The selection of the site is appropriate in terms of PPW because it meets the overriding need objective: it is available for development now and there is capacity for the site to be developed, contributing to overall renewable energy objectives.

The proposal makes use of the available grid connection capacity, ensuring this capacity is used for generation of renewable energy. The availability of the grid connection and its capacity is a major constraint on the Welsh Government meeting its renewable energy obligations and aspirations, which add to the importance of developing this site.

The following Brown Field sites were considered :

- Celtic Business Park
- Land south of Queensway.
- Duffryn/Caltic springs business park.
- Newport Land fill

In summation, a review of available brownfield sites shows:

Celtic Business Park was considered High flood risk; Proximity to SSSI; Heritage assets in area; Proximity to residential development and better suitability for further housing and commercial activity; Shading issues from storage units.

Land south of Queen's Way high flood risk; SSSI; Heritage assets; Proximity to residential development and better suitability for urban regeneration and increasing employment opportunities.

Duffryn/ Celtic Springs Business Park was discounted due to its proximity to residential development; Better suited to continued commercial/ residential expansion both north and south of A48; Insufficient land for single 4.85MW solar development; Impact on Heritage assets - Landscape of Outstanding Historic Interest; Major Visual impact on nearby visual receptors – public footpaths/ cycleway and residential properties.

Newport City Councils landfill was discounted due to proximity to residential development; Structural and stability issues developing on landfill; Insufficient land for single solar development; Contamination concerns; Topographical issues for drilling and excavation work.

- The sites are of insufficient area and would require multiple brownfield site developments to meet the 4.85MW generation capacity of Fairwater Farm
- The grid capacity is not readily available and the required connection infrastructure would be both significant and costly
- The sites are in urban areas and have already been committed for permanent development i.e. housing or other
- The land is or would not be available for development as a solar farm as a result of emerging other development interests.
- The site is not available due to land ownership constraints and restrictions

The Policy allows for the development of greenfield sites for renewable generation if brownfield sites are not available. Given the lack of brownfield sites the default to greenfield sites is appropriate and acceptable under NLDP Policy CE10. As the site is Grade 3b agricultural land it is wholly appropriate to consider the proposed use. The sequential analysis concludes that there are no existing, available, suitable or viable brownfield opportunities which meet the criteria. This analysis has also been reviewed by the Council's Planning Policy Section who is satisfied that in this case it has been demonstrated that there are no sequentially preferable brownfield sites available.

#### 7.8 Landscape and Visual Impact Assessment :

The site is rural in character and comprises gently rolling countryside. The application site is located on land which slopes toward a level plain towards Began Road and the River Rhumney beyond. In terms of built form, whilst there are some houses within the vicinity of the site, the glass houses associated with the Began valley nurseries are sited to the west of the site and the M4 Motorway sits close to the south eastern boundary of the site, The application is accompanied by a Landscape and Visual Impact Assessment, prepared in accordance with the industry-standard Guidelines for Landscape and visual impact assessments. It includes study area of 2.5km from the site. It contains a comprehensive assessment of the effects of the development on landscape and visual amenity during construction and operation. The report

includes a glint and glare analysis and photomontages showing how the development will appear from different viewpoints in the local area.

Landscape designations provide an indication of landscape value: they are areas that have been recognised for their scenic beauty and the recreational potential of the landscape. The site does not lie within or near any nationally important landscape designations (such as a National Park or Area of Outstanding Natural Beauty) and is not located in a Special Landscape Area, Green Belt or Green Wedge. The Gwent Levels Landscape of Outstanding Historic Interest is located 2km from the site; within 4km there are four Registered Historic Parks and Gardens, the closest of which (about 500m) is Cefn Mably. There are three areas of ancient woodland adjacent to the application site.

- 7.8 The assessment considers the main features of the array that could result in landscape and visual impacts which include activities and movement of equipment and vehicles during the construction stage, the array frames which are up to 3m in height, the erection of a dark green 2.4m high fence, the cells mounted on arrays, connection point building, transformers and inverter stations, installation of grid connection cable from the site, drainage swales which are located to follow the pattern of hedgerow and sections of hedgerow planting within the application site. The potential for adverse effects on the landscape and visual amenity have been recognised and mitigation measures have been incorporated into the scheme, which include the retention and protection of ancient woodland adjacent to the site hedge planting along the northern side of the stream and security fence in the northwest section of the solar array site will help to mitigate potential views from Began Road along with reinforced planting along the western boundary. Hedgerow planting will extend southwards along the stream through the site to reinforce habitat connectivity between the existing blocks of woodland. Species chosen will be native species consistent with adjacent woodland and hedgerows. Also reinforced hedgerow planting along the southeast mitigating views from the M4. The proposed security fence will be a 2.4m high chain link fence with dark green powder coated finish to reduce its potential visual prominence.
- 7.9 The proposed solar arrays within the revised scheme will not result in the removal of site vegetation. Planting to improve hedgerow boundaries within and around the site would have a negligible beneficial impact on the vegetation pattern and ecological connectivity of the site in the longer term. The assessment states that the rural character of the site contributes to the landscape character of the wider area. The layout of the arrays will lie within the existing field pattern of the area. The proposed planting will help to reduce the potential urbanising influence of the solar array frames on the rural character of the site. Proposed drainage swales and security fencing will follow the pattern of field boundaries which will minimise their impact, particularly once grass cover has been established within the swales. Overall the development would have a moderate adverse impact on the immediate rural character of the site context. In the wider landscape the change would be negligible when considered in the context of other development, including the urban development at the suburbs of Cardiff, M4 Motorway and overhead power lines nearby, which are all distinctive features within many views from the area surrounding the site.
- 7.10 Landscape character contributes to landscape amenity, as experienced by people who use the public footpaths and roads within the immediate vicinity of the site. The potential adverse impacts on the amenity of the nearby residents as a result of the proposed solar arrays are limited due to the small number of close proximity views from publicly accessible locations. It would result in a slight adverse-negligible impact for more distant receptors due to the small scale of change within the wider landscape setting. For a limited number of receptors within close proximity to the site, the potential impacts would be slight adverse. The visual appraisal, informed by the Zone of Theoretical Visibility (ZTV) study identified a number of locations from which the solar farm is visible. Seven viewpoints were identified as representative of the range of views available and photomontages were prepared for these locations. The views provided images which show the landscape prior to the installation and post installation. It demonstrates that in the majority of locations the solar panels would have a moderate impact, their presence being screened by existing hedgerow. Viewpoint 1 shows views from the M4 which show that panels can be viewed

but sit within the natural vegetation of the existing hedgerow and woodland planting. Viewpoint 2 from Began Road to the south of St Brannocks, show that the site is well screened by existing hedgerow particularly during summer months. Viewpoint 3 from the Fairwater Farm entrance on Began Road, glimpses of the panels would be visible. Viewpoint 4 and 5 from Cefn Mably residential development and 6 the access track to Ruperra castle, show distant views and glimpse of the panels set against the existing vegetation. Photograph 7 is taken from the proposed access track and show that the panels will be visible, additional planting is proposed adjacent to the access track and following the maturity of this, the site is well screened, however it is acknowledged that the planting will take years to establish. The northern boundary of the site would be visible from the houses sited to the north of the field ( Pentrepoeth Cottage, Nant-Y- Deri and The Waggoners ), planting is proposed adjacent to this boundary which will in time improve views from these properties.

7.11 The assessment also considers glint and glare from the panels, the panels area designed to absorb light to generate electricity and not reflect it. Glint is direct reflection of sunlight, whereas glare is the diffuse reflection (or reflection of the bright sky around the sun). The only significant receptors likely to be able to observe glint are roads in the vicinity, parts of Pontprennau, Cardiff Gate and isolated dwellings. The assessment notes that any glint will be negligible compared to the brightness of the sun ( which would be bright and from the same general direction as any glint.) The Welsh Government Transport Division has not objected and considers there would be no adverse impact on the operation of the M4. Overall, it is considered that the proposal has no significant adverse effect on the environment and amenities of local residents by reason of its scale and appearance and respects the character of the countryside setting. The Head of Street Scene and City Services (Landscape Officer) has offered no objections to the proposed scheme due to its greatly reduced size.

#### 7.12 Ecology:

The application is accompanied by an extended Phase 1 Habitat Survey which was undertaken in July 2013 and updated in March 2015. The purpose of the survey was to identify habitats on the site and their potential to support protected species. Natural Resources Wales have noted that suitable habitat for bats, great-crested newts, and dormice, is considered present on site. These species are European Protected Species under the Conservation of Habitats and Species Regulations 2010 (as amended). They are also aware of dormice using habitats immediately adjacent to the application site and therefore consider that this species is highly likely to be present in hedgerow and woodland habitats across the site. A neighbour has reported badgers in the fields in this area. NRW welcome the recommendations made in Section 5 of the above report. In particular:

- the retention of trees, hedgerows, wet and dry ditch habitats, and areas of woodland;
- the protection of retained habitat in line with best practice guidance during construction;
- the enhancement of habitats on site to reinforce habitat connectivity into the wider area (using native species of local provenance);
- the implementation of a Habitats Management Plan for all retained and created habitat to ensure suitable management to create a net biodiversity gain;
- the retention of adjacent farm buildings which may have the potential to support bat species.
- no lighting to be installed on site.

A buffer zone would be provided which is shown 5m from the hedgerow, a grassed access track lies within the perimeter fence line and the solar panels would be 5m from the fence line.

The assessment recommends that during construction all retained habitats should be protected in line with best practice guidance; all grasslands created during the operation stage of the project should be seeded with an appropriate seed mix. In addition all landscape planting should use native species of local provenance. A Habitat Management Plan should be produced for all retained and created habitat to ensure a net biodiversity gain. To maintain access to foraging habitats onsite for badgers known to be present within the wider area badger gates should be installed within the security fencing at suitable intervals. Proposed planting will provide corridors linking a number of woodlands to Nant Mwlán Wood (with recorded dormice presence), thus



enhancing the current connectivity of the site. After the decommission of the solar farm it is considered that the site would continue to function as a site of importance to biodiversity. A condition requiring a full ecological survey to be carried out and submitted, that will inform decommission of the site, is attached.

The Head of Street Scene and City Services (Ecology Officer) has no objection to the scheme. It is accepted that significant impact upon protected and notable species is not expected. The recommendations of the survey are considered to be acceptable and appropriate conditions are suggested should the application be approved.

#### 7.13 Flooding:

In terms of Flooding, the majority of the proposed development site lies within Zone A with it being partially within Zone C1, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15. As the site is partially located within a flood risk area Section 6 of TAN15 requires determination as to whether the development at this location is justified. It is considered that this type of development can be classified as “utilities infrastructure” and according to Figure 2 in TAN15 is in the “less vulnerable development” category. All the transformer, inverters and the control structures are proposed to be sited on land sited outside zone C1. The access road is sited within zone C1 however it is considered that due to the nature of the development and with the exception of the construction period, will be very lightly used, it is not considered to prejudice the scheme. The recommendations of the Flood Consequence Assessment which follow, provide guidance how the site would be managed in the event of a flood event.

The following tests need to be considered

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement<sup>1</sup>; **or**,*
- ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; **and**,*
- iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,*
- iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.”*

7.14 In terms of Section 6(i) it is considered that the proposal complies with policies CE10 refers to renewable energy schemes – This policy is supportive of renewable energy schemes subject to there being no overriding environmental or amenity considerations. The amenity impact is particularly important due to the scale and type of development, the visual impacts of the scheme are considered within the landscape appraisal. It is considered that the development would not cause significant adverse effects on the local amenity or significant adverse visual affects and is not at odds with policy GP2. In addition, the location of the proposal is key to ensuring sustainable development ensues. An assessment as to the location of appropriate brownfields sites would be required to justify the location of a use in the Countryside. The applicant has submitted a sequential analysis of alternative sites and it is considered that it has justified why in this instance this location is suitable. The proposal is therefore not at odds with CE10. In terms of 6(iii) the test requires that the development concurs with the aims of Planning Policy Wales in that it is previously developed land. Agricultural land does not fall within the definition of previously developed land, and the site is therefore at odds with this policy. However the applicant has demonstrated that suitable brown field site are not appropriate in this instance and the use of a greenfield site is justified. It is also relevant that this solar farm use of this site is for a temporary period of 25 year. It is wholly reversible and that the former agricultural use will be maintained at the end of the temporary period. The use of the site for renewable energy purposes

accords with national policy and therefore the use of this small portion of site that falls within Zone C1 is considered to be justified. In terms of its impact on the area, the structures associated with the proposal are not tall structures are intermittent in siting.

- 7.15 In terms of Section 6 (iv) a flood consequence assessment has been submitted, Natural Resources Wales have examined the Flood Consequences Assessment (FCA) 1. The flood consequence assessment concludes that
- 1 The majority of the site is located within Zone A with part of its western extent being within Zone C1.
  2. Only the flood resistant framed solar panels and access tracks are proposed to be located within the lower western extent i.e. River Rhymney Floodplain. The main access into the site is not located within the floodplain.
  3. The solar panels will be generally raised above ground levels by at least 830mm and within flood risk areas at 500mm above the 1% (1 in 100 year) plus climate change flood level. Some areas of the site have been identified to flood up to a depth of 600mm where the lower edges of the solar panels will be 1.1 metres above ground levels in the affected areas.
  4. The existing site is mainly surrounded by hedgerows which are considered to provide a sufficient barrier to prevent large fluvial debris from the River Rhymney from entering the site. The likelihood of blockage occurring to the support frames is therefore low and will not increase flood levels within the area.
  5. The proposed changes in land use and ground cover with the new solar panels and infrastructure will generally produce less surface water runoff and/or maintain the existing rates. Flooding from this source will not be increased elsewhere.
  6. The surface water drainage strategy will be guided by current industry best practice i.e. CIRIA C697 The SUDS Manual.
  7. A SUDS treatment train (two stages) will be required for the management of surface water runoff which will comprise: roadside drains/ditches with check dams to reduce velocities and allow sediment settlement and swales placed downstream of the drains to collect runoff for infiltration and storage.
  8. Calculations have been undertaken to establish the storage volumes required using a 1% (1 in 100 year) plus 30% climate change rainfall event. No additional surface water runoff from the proposed development will be generated up to and including this design event.
  9. The 1 in 1 year Greenfield runoff rate from the site will be 13.87 litres/sec (Appendix 1 of the FCA). which equates to a runoff rate of 5.25 litres/sec/hectare based on an impermeable area of 2.64 hectares. Calculations have established a figure of 4.5 litres/sec/hectare, which is not too dissimilar to the consultants estimate. Bearing in mind that the minimum flow from a site of 5 litres/sec is recognised and referred to in the Greenfield runoff summary table of Appendix 1, we have no adverse comments to make regarding the proposed rates.
- The assessment also provides confirmation that Flood warnings for the site will be obtained by registering to receive NRW's free Flood Warning Direct service. It also contains a flood evacuation plan
- Natural Resources Wales have offered no objection to the proposal subject to conditions requiring that the following measures as detailed in the Flood Consequences Assessment (FCA) will be carried out. The thresholds of the transformer and inverter stations and solar panel units must be set to a level of at least 500mm above the design 1% (1 in 100 year) plus climate change flood level. Require that a scheme of surface water is submitted to and approved in writing by the Authority, to ensure effective management of surface water run-off resulting from the proposed development. On this basis it is considered that the application does comply with the advice contained within section 6.2. With regards to policy SP3 it is considered appropriate detailed technical assessment has been submitted which ensures that the development is designed to cope with the threat and consequences of flooding over its lifetime. The panels will be underlain by grassland and there is no reason to think that the run-off from the site will be significantly increased to the extent that offsite flooding will occur. The Drainage Manager notes the proposal has the scope to increase run-off particularly via the proposed trackways. The applicant notes that SUDS methods can be used to reduce run-off during the operational life of the scheme. A Construction Management Plan can be used to control drainage during the construction phase. Overall it is concluded that conditions can be used to prevent drainage

issues arising on the site particularly given the small area of the site that will actually be developed in such a way that permeable surface is lost (the tracks).

7.16 Cumulative Impact:

In terms of the cumulative impact of the development developers need to consider the number of similar developments in the locality and the impact that they would have collectively. There are three permitted solar farms in Newport, Clearwell farm which is within 2.5km of the site, Hazel farm and Court Farm which are sited within the eastern part of the borough some 16km away. There are two wind turbines in situ, one at Clearwell farm and one at Penylan farm. In terms of visual impacts there are limited views of the turbines and the solar farm at clearwell farm is very discrete. It is considered that the cumulative impact is not an issue.

7.17 Noise:

The Head of Law and Regulation has requested a condition that noise generation from the site should be in accordance with BS 4142: 2014 which requires that any noise source shall not have adverse impacts. However the potential noise source proposed within the site is remote from dwellings and the use is not inherently noisy although equipment such as switch gear or fans will generate some noise. However it is not felt that this is so noisy that the rural character of the site will be adversely affected to a significant degree. A condition controlling piling has also been requested, this can be dealt with under a Construction Management Plan condition.

7.18 Access:

The Head of Street Scene and City Services (Highways) has no objection to the amended scheme and requires that a construction and traffic management plan be secured via condition. The Welsh Government Transport Division has not objected and considers there would be no adverse impact on the operation of the M4. No footpath now cross the site, public footpaths are sited approximately 500m away from the development. The footpaths officer has offered no objection to the proposal.

7.19 Archaeology:

Glamorgan Gwent Archaeological Trust have stated that the revised desk based assessment by White Young Green, suggests that given the nature of the proposed development works it is unlikely that any other archaeological features would be impacted upon and therefore no further mitigation is required in the remainder of the development site, a proposal with which we do not concur. As such it is their professional opinion that an archaeological programme of work should be submitted and implemented in order to mitigate the impact of the proposed development on the archaeological resource. Therefore strongly recommend that a condition, requiring that the applicant should submit a detailed written scheme of investigation for the implementation of a programme of work, should be attached to any consent be given

7.20 Community Benefit offered by the developer:

Some consultation responses have noted that no community benefit would arise from the scheme. The applicant has now made contact with the Community Council. The applicant offers financial contributions to a 'Community Fund'. This would be £500 per Megawatt of installed capacity, that is £5000. TAN 8 is clear that such non-planning related offers can be made by developers. However they cannot form any part of the planning consideration. Paragraph 3.7.6 of Planning Policy Wales clearly states that if an obligation is not:

- Necessary to make a development acceptable in planning terms
- Directly related to the proposed development
- Fairly and reasonably related in scale and kind to the development

Then the offered contribution cannot be taken into account as part of a planning consideration as a matter of law.

As such the benefit has been offered but it cannot be secured under planning legislation and it is not material to the planning decision. Nor can it be insisted upon as part of the planning process. As

such it is a matter that carries no weight in the determination of this application and is in effect a private matter between the applicant and the proposed beneficiaries.

#### 7.21 Reversibility:

In terms of reversibility the applicant has produced a construction and decommissioning statement which provides details of the construction methodology and the restoration of the site. Details of both of these processes can be required under condition and there is no reason to think the long-term agricultural potential of the site will be significantly adversely affected if there is an appropriate conditional regime in place. The construction of solar farms is now a standardised technology and there is no reason to think there is anything in the particulars of this site which would prevent an appropriate restoration. As such it can be concluded that Paragraph 4.10.1 of PPW is complied with if appropriate conditions are applied.

#### 7.22 Agriculture:

The site forms part of Fairwater Farm and is used for growing crops including maize, wheat and rape seed. The development is temporary and reversible and, as such, would have no permanent effect on soils and agricultural land quality. Although the development will preclude arable use of the fields during the operational period, grazing of animals will be possible and the land will be restored to arable use at the end of the operational period. The application as originally submitted was subject to objections on the grounds of the loss of “best and most versatile agricultural land”: that is, land in Grades 1, 2 and 3A of the Agricultural Land Classification (ALC). Reference to the Agricultural Considerations report prepared by Kernon Countryside Consultants shows that the area of land on which the solar panels are to be installed lies wholly within ALC Grade 3B which is not defined as “best and most versatile agricultural land.”

#### 7.23 Welsh water

Welsh water have confirmed that sewers cross the Western section of the site and a no build easement of 6m either side of the line of the sewers would be required. The Applicant has amended the layout which Welsh water have considered and confirmed that there is no objection subject to standard advisory notes.

#### 7.24 Other Issues

There has been a great deal of objection to the proposal and the concerns of residents and action groups have been taken into account and it is considered that the report addresses the concerns.

In summary the sequential report collectively took into consideration all local and national designations, areas of flood risk, landscape and visual impact on nearby residential areas, roads and footpaths. It assessed any practical issues such as insufficient area for a 4.85MW/ 25 acre ground-mounted solar proposal. It identified, within Newport City Council’s proposals map that several of these sites have been earmarked for urban regeneration. Welsh Government have withdrawn their objection to the application on the basis that it now only comprises grade 3b land. The applicant sequential test acknowledges this fact and that is as far as is necessary, they need not look at lower grade land in this instance. Policy CE10 requires that brown field sites should be considered before a green field site is considered keep us rural refer to possible such sites in Cardiff and state that the applicant has failed to consider these. However policy CE10 is a policy of the Newport local plan and the applicant is only obliged to consider sites within its administrative boundary. In terms of visual impact it is proposed to provide screening along the northern, western and south eastern boundaries to mitigate visual impact from visual receptors in those locations. Overall the changes to the Landscape and Visual Amenity of observers is not considered to be unacceptably harmful unto itself. No designated landscapes are adversely affected to an unacceptable level. National advice is clear that other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area

vista, proposals for appropriately designed solar thermal and PV systems should be supported. In this case it is not considered that critical visual harm is caused and as such the proposal is acceptable in visual terms. The development will deliver the clear benefit of low carbon electricity generation which outweighs the limited visual harm of the proposal. The panels will be underlain by grassland and there is no reason to think that the run-off from the site will be significantly increased to the extent that offsite flooding will occur. National Resources Wales have not raised any objection. In highway terms the development is acceptable. Glare and Glint, this has been raised as an issue by neighbours. The applicant addresses the matter in his Environmental Report and concludes that glare and glint are unlikely to be a significant problem to road traffic, air traffic or dwellings and will be mitigated by planting proposals. There is no reason to disagree with this assessment. The Welsh Government Transport Division has not objected and considers there would be no adverse impact on the operation of the M4. Decommissioning Statement states the applicant is responsible for the disposal and removal of all equipment in accordance with all relevant health and safety and environmental laws and regulations. Other issues are not considered to be harmful to the public interest and the proposed Community Benefit is not material to the consideration. In terms of local Policy NLDP Policy CE10 directs large scale renewable generation to brownfield in preference to greenfield sites.

**7.25 Late Representations Report:**

**1.1 Following the need for a sewer easement within the application site, the applicant has amended the Design and Access statement which states that:**

- propose to use 18,654 panels (260kW). Of the 18,654 panels, 14,254 fall within Newport and 4,400 fall within Cardiff)**
- connection to the grid is via a 11KV cable not a 33 KV cable as previously stated**
- for clarification the height of the fence is 2.4m (not 2.8m as the report states) and the CCTV camera pole is the same height of the fence with 0.3m for the actual camera therefore a total height of 2.7m.**
- the final capacity is still 4.85MW.**

**1.2 In terms of the need for an extra committee meeting the applicant has provided the following information:**

**It is necessary to secure electrical switchgear which allows the project to connect to the grid network. This switchgear is project specific and therefore has to be custom ordered, the minimum lead time of 16-18 weeks.**

**Western Power Distribution who will be carrying out the works on the connection to the grid will need to put in a Section 50 application for the cable route to the Point of Connection, such an application with notices of road works takes 3 months in itself before being able to start any physical works, leaving very little time to complete all works before 31 March 2016.**

**1,3 FURTHER RESPONSES:**

**1.4 Copy of a petition received from Keep Us Rural objecting to the proposal urging Welsh Government to call in the application signed by 570 residents , the main reasons for objection are:**

- Planning policy Wales requires the conservation of Best Most Versatile Land. The land is considered to be Best Most Versatile and should be preserved and protected for future generations as it is a finite resource.**
- There are alternative brown field sites available across the city and these sites should be used before permitting development on greenfield sites even then Best Most Versatile land should be preserved as there are lesser grade greenfield sites, according to the Agricultural Land Classification report**
- Planning Policy Wales supports the view that when Best Most Versatile land is used for something other than agriculture, it is seldom returned to a Best Most Versatile site. The solar farm is proposed for 25 years , the ability to return the site to Best Most Versatile is nigh on impossible.**

**1.4 A Neighbour objection requesting that the cumulative impact of the proposal is considered-**

- the footpaths officer has stated that the only negative impact that the proposal could have upon the Public Right of Ways is relating to the likely reduction of viewing enjoyment for its users, current renewables in the area already have a marked affect on the landscape and this solar farm would further add to this.
- the current turbine and one of the solar projects at Clearwell Farm is clearly visible for the Public Right of Way 400/17 and visible from many other locations.
- the second solar project at Clearwell is visible from numerous locations including footpath 400/02
- this is a small community and the number of renewable planning applications is disproportionate.
- further projects would have a negative impact upon the rural community.

**1.5 Further comments from Keep Us Rural:**

- believe the greenfield sequential test is invalid as the maps used are totally unsuitable for this purpose. Request a full explanation of why it was agreed that these maps could be used,
- Why it has been agreed that the applicant should only look at greenfield sites within Newport rather than the Wales wide search that should have been undertaken.?
- The brownfield test is inadequate as it should have identified the site at Alexandra Docks as being suitable but it was not even mentioned in the test document.
- Could you also explain why it was agreed that only four brownfield sites should be looked at. The test should have at least covered the whole of Newport. If it had the applicant may have identified the Alexandra Docks site. Without covering the whole of Newport it cannot be said that alternative brownfield sites are unavailable and therefore it does not comply with policy CE10 of our LDP.
- these tests are required and therefore they must be carried out competently.
- If full and complete details are not made available to members of the planning committee they will not be in a position to make a fully informed decision. That would leave any decision open to challenge by judicial review, this is something that would be best avoided.
- if planning committee are minded to approve the following conditions should be imposed:
  - That an inflation linked bond is taken before construction for the estimated cost of decommissioning after 25 years. The cost of decommissioning could not be covered by selling the land, it would be far more expensive than that. Therefore to avoid future generations being burdened with the cost an inflation linked bond should be secured by condition.
- The land is only limited to subgrade 3b due to its wetness in winter months and because it is on a flood plain. Work should not take place during winter months as wet soil is easily compacted and therefore the land could not be returned to its previous condition after 25 years. We suggest that no work should be allowed between the end of October until the end of March. This would help the land to be returned to its previous land grade once decommissioning has taken place.

**2. OFFICER RESPONSE TO LATE REPRESENTATIONS**

- 2.1** The amendments to the Design and Access Statement are minor and are not considered to have a bearing on the proposal.
- 2.2** **ADDITIONAL RESPONSES:**  
The petition states that the main reasons for objection would be that the development would take place on Best most versatile land. Due to the reduction in the site area, the

site is now solely on Grade 3b land which is lower grade land and does not constitute Best Most Versatile land. The applicant has also considered available brown field sites and their reasons for these sites not being chosen are set out in the officer report and accepted by the Planning Policy Manager.

- 2.3 In terms of the cumulative impact the nearby installations include two wind turbines one at Penylan farm and one at Clearwell farm, and a solar farm at Clearwell Farm. These installations are approximately 2.5km away and there are only distant views of the features. Therefore the cumulative impact is considered to be negligible as considered within the report S7.16.
- 2.4 In terms of the comments from Keep us Rural and specifically the Greenfield sequential test, as the application site relates to lower grade agricultural land Class 3B, the applicant is not required to demonstrate overriding need or look at lower grade land as required in Planning Policy Wales paragraph 4.10.1.
- 2.5 Turning to the Brown field sites, National Planning Policy requires authorities to undertake an assessment of the opportunities and potential for renewable energy in the area. Newport undertook this assessment in line with the Welsh Government 'Planning for Renewable and Low Carbon Energy – A Toolkit for Planners'. The resultant document, 'Torfaen County Borough Council and Newport City Council Renewable and Low Carbon Energy Assessment,' was produced and submitted as part of the evidence base of the Local Development Plan. This report, undertaken to evidence the Local Development Plan, assessed the potential for the whole of the Newport Authority area and the outcome of the assessment identified those brownfield sites which formed the applicants sequential test. The sites identified by the report did not identify Alexandra Docks as a brownfield area with potential for solar PV development.
- 2.6 With regard to suggested conditions :
- That an inflation linked bond should be secured by condition. The applicant has stated that they have an obligation to the Land Owner to reinstate the land to its former condition and a budget is in place over the lifetime of the project to cater for the decommissioning process/ costs - the land will be restored exactly to its 3b condition. Also any bond figure would have to be based on an estimate, it is therefore not considered reasonable to require a bond.
- 2.7 Keep Us Rural have suggested that no work should be allowed between the end of October until the end of March. This would help the land to be returned to its previous land grade once decommissioning has taken place. Welsh Government have accepted the decommissioning statement prepared by the applicant. The developer has already indicated that time scales are extremely tight and to delay the project could have serious implications over its delivery. It is considered that condition 5 which refers to the construction method statement and requires details of on site construction work and the decommissioning statement is sufficient to provide adequate details to ensure the condition of the site is respected and that the development would be reversible.

## 8. OTHER CONSIDERATIONS

### 8.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

## 8.2 **Equality Act 2010**

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

## 8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

## 8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

## 9. **CONCLUSION**

9.1 Overall it is considered that the harm to landscape character, visual amenity and the amenity of users of the public footpath network is not of sufficient weight to justify a refusal of permission especially given the benefits of the scheme and the broad policy support enjoyed by renewable generation at national and local level.

## 10. **RECOMMENDATION**

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents site location plan A082921/ 01REVC, 01 r1 Solar panel, fence gate, cctv camera, transformer cabin, inverter, connection point unit, DNO, Revised Planning Statement/Design and Access Statement , Landscape and Visual Impact Assessment, WYG, revised September 2015, Extended Phase 1 Habitat Survey, WYG, revised April 2015 , Archaeology and Heritage Desk-Based Assessment & Geophysical Survey, WYG, revised March 2015 , Revised Transport Statement, EEW Eco Energy World, revised March 2015 , Flood Consequences Assessment and Drainage Strategy, Waterman, February 2014 updated September 2015, Agricultural Considerations, Kernon Countryside Consultants, June 2014 , Tree Report, Acer Ecology, May 2014.

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based

### ***Pre- commencement conditions***

02 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

03 ROOT PROTECTION DETAILS: No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary access construction, soil moving, and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until Root Protection Barrier fencing has been installed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. These details shall include information on the constructional details of the fencing and its positioning clearly shown in plan form. No excavation for services, storage of



materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root Protection Areas defined by the fencing. The fencing shall be retained for the full duration of the construction phase of the development, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To protect important landscape features within the site.

04 ARBORICULTURALIST: No development, to include demolition, shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be responsible for:

- Supervision and monitoring of the approved Root Protection Details;
- Supervision and monitoring of the approved tree felling and pruning works;
- Supervision of the alteration or temporary removal of any Barrier Fencing;
- Oversee working within any Root Protection Area;
- Reporting to the Local Planning Authority;
- The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at monthly intervals - commencement to be agreed by the Council's Tree Officer.

Reason: To protect important landscape features within the site.

05 CONSTRUCTION METHOD STATEMENT: Development shall not be begun until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The construction method statement shall set out details of all on-site construction works; post-construction reinstatement; drainage; mitigation; and other restoration, together with details of their timetabling. It shall include details of, and measures to secure:

- (a) the phasing of construction works;
- (b) the formation and position of the temporary construction compound;
- (c) dust management and suppression;
- (d) cleaning of site entrance, facilities for wheel washing and cleaning the adjacent public highway;
- (e) pollution control, including the protection of water courses and ground water; subsoil surface water drainage; bunding of fuel storage areas; sewage and foul water drainage and disposal; and emergency procedures and pollution response plans;
- (f) temporary site illumination during the construction period;
- (g) the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable levels and in accordance with BS 5228: Noise control on construction and open sites;
- (h) storage of materials and disposal of surplus materials;
- (i) the construction of the access into the site, the erection of any entrance gates and the creation and maintenance of associated visibility splays;
- (j) access tracks and other areas of hardstanding, including areas of temporary road matting;
- (l) the carrying out of foundation works, including the foundation of the solar arrays and any other structures to be installed on the site;
- (m) method of working cable trenches, including soil storage and back-filling;
- (n) general soil storage and handling;
- (o) post-construction restoration/reinstatement of the working areas, including cable trenches and area covered by any matting;
- (p) the sheeting of all heavy goods vehicles construction materials to, or spoil from, the site to prevent spillage or deposit of any materials on the highway;
- (q) details of the vehicles to be used on the site during construction activities
- (r) details of control of surface water to prevent it entering the public highway

The works shall proceed in full accordance with the agreed construction method statement.

Reason: to protect the interests of the rural character of the area, the integrity and safety of the highway network and to protect the amenity of residents and to ensure the site can be restored to agricultural use.

06 Prior to the commencement of development, details of the proposed landscaping planting as illustrated on drawing number LA.11Landscape Master Plan and the new hedgerow planting along the northern , western and south eastern boundary of the site indicating the number, species, heights on planting and positions shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the hedgerows shall be maintained for the lifetime of the scheme from the date of planting in accordance with an agreed management schedule. Any species which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.  
Reason: To mitigate the visual effect of the development from the adjacent public right of way.

07 No development, shall commence until full details of a scheme to dispose of surface water is submitted to and approved in writing by your Authority, any proposed scheme should ensure that run-off from the proposed development is reduced or will not exceed existing runoff rates. Details of adoption and management should also be submitted to ensure that the scheme/systems remain effective for the lifetime of the development The details shall be implemented fully in accordance with the approved scheme.  
Reason: To ensure adequate drainage is provided.

08 No development shall commence until a Habitat Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall proceed in full accordance with the agreed Habitat management plan.  
Reason: To protect and enhance the ecological value of the site.

#### ***Pre – construction conditions***

09 DETAILS OF TRACKWAY CONSTRUCTION: No tracks shall be constructed on the site until details of their construction have been provided in writing to the LPA. Following the LPA's written agreement any tracks shall be constructed fully in accordance with the agreed details.  
Reason: to ensure any tracks are constructed in a fully reversible way in the long-term interests of restoring the site to agricultural use and to reduce the risk of run-off entering the highway.

#### ***General conditions***

10 DECOMMISSIONING – Decommissioning and restoration: Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the solar panels and all other associated equipment & paraphernalia and the subsequent restoration of the site. The scheme shall include details of:

- the extent of equipment and foundation removal and the site restoration to be carried out;
- the management and timing of any works;
- a traffic management plan to address likely traffic impact issues during the decommissioning period;
- an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife, habitats and tree features on the site;
- identification of access routes;
- location of material laydown areas;
- full details of the removal of the solar arrays, associated buildings and plant, any trackways and sub-surface cabling and all associated works of ground restoration including trench backfilling;
- full details of all works to restore the land to allow for agricultural production following the removal of structures from the site;
- a programme of implementation.

The approved scheme shall be implemented within 12 months of the expiry of this permission and then proceed fully in accordance with the agreed details in accordance with the decommissioning programme.

Reason: to ensure the site is fully restored to allow agricultural use and to maintain the rural appearance of the area.

11 REPAIR, REPLACEMENT AND REMOVAL OF SOLAR FARM: If the solar farm hereby permitted fails to produce electricity for supply to the grid for a continuous period of 6 months, a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 6 month period for the repair or removal of the solar farm. Where repairs or replacements are required the scheme shall include a proposed programme of remedial works. Where removal of the solar farm is required the scheme shall include the same details required under condition 07) of this permission. The relevant scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: to ensure the solar farm beneficially generates electricity or is otherwise removed to the benefit of the character and appearance and the agricultural potential of the area.

12 LIFETIME OF THE PROPOSAL: the permission hereby granted shall expire 25 years from the date when electrical power is first exported ('first export date') from the solar farm to the electricity grid network, excluding electricity exported during initial testing and commissioning. Written confirmation of the first export date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: the proposed scheme has a 25 year lifespan.

13 The soil stripping, handling, storage, replacement operations and timing of works shall be undertaken in accordance with the specification and methodology provided in the Construction and Decommission Method Statement (September 2015).

Reason: To safeguard the integrity of the agricultural land.

14 The development hereby approved shall be carried out in accordance with the recommendations of the Extended Phase 1 Habitat Survey, WYG, revised April 2015.

Reason: To protect and enhance the ecological value of the site.

15 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Consequences Assessment (FCA) produced by FMW Consultancy, Reference FMW1325/Issue 2 dated 25<sup>th</sup> February 2014, and amended in September 2015.

Reason: In the interest of the management of flood risk.

16 The thresholds of the transformer and inverter stations and solar panel units must be set to a level of at least 500mm above the design 1% (1 in 100 year) plus climate change flood level. (Sections 5.2, 8.21, 9.11 and 9.14 of the FCA)

Reason To reduce the risk of flooding to the components and associated infrastructure within the development

17 The rating level of the noise emitted from fixed plant and equipment located at the site shall not give rise to an adverse impact at any premises used for residential purposes when measured and corrected in accordance with BS 4142: 2014.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected

#### *NOTE TO APPLICANT*

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP5, SP8, SP21, GP1, GP2, GP3, GP5, GP6, GP7, CE10 & T7 were relevant to the determination of this application.

02 As of 1st October 2012 any connection to the public sewerage network (foul or surface water sewerage) for the first time will require an adoption agreement with Dwr Cymru Welsh Water. For further advice contact Dwr Cymru Welsh Water on 01443 331155.

03 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.

04 Welsh water have requested that the developer contact welsh water to accurately locate the public sewer prior to progressing on site,

05 No development, (including land raising and demolition if required) shall be carried out other than between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays

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**11. SITE INSPECTION**

Reasons for a Site Inspection are : There were Committee Members who had not attended the previous site inspection who could attend this inspection, to assess the access to the site, benefits of renewables versus environmental issues and impact upon residents and flooding issues

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