



Application Report

Planning, Housing and Health
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG

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| Application No: | 76423 |
| Application Type: | Full Application |
| Application Expiry: | 20 June 2023 |
| Extension of Time Expiry: | 20 June 2023 |
| Publicity Expiry: | 8 June 2023 |
| Parish/Ward: | HEANTON PUNCHARDON/HEANTON PUNCHARDON |
| Location: | Perrigo Exeter Road Braunton Devon EX33 2DL |
| Proposal: | Erection of ground mounted solar panels (departure from the Local Plan) |
| Agent: | Miss Leanne Barlow |
| Applicant: | Ms Claire Goodwill |
| Planning Case Officer: | Mr S. Emery |
| Departure: | Y |
| EIA Development: | |
| EIA Conclusion: | Development is outside the scope of the Regulations. |
| Decision Level/Reason for Report to Committee (If Applicable): | Delegated |

Site Description

The application site is formed of open agricultural land to the east of Perrigo. The site bounds the A361 to the north with mature hedgerow and trees, which obscure views from the highway. Partial views of the site can be had from the Public Right of Way (the Tarka Line) to the south of the site. An industrial development is currently being developed to the east of the site. Whilst the land to the south, including RMB Chivenor to the other side of the Tarka Line, is generally flat, the land to the north of the A361 elevates to the village of Heanton Punchardon, where long-range views of the site can be had.

Recommendation

Approved

Legal Agreement Required: No

Planning History

| Reference Number | Proposal | Decision | Decision Date |
|-------------------------|---|-----------------------------|----------------------|
| 30100 | Erection of storage building at Wrafton Laboratories Ltd, Wrafton, Braunton, EX33 2DL | Full Planning Approval | 26 February 2001 |
| 28208 | Outline Application extension to existing industrial premises (amended plans in relation to highway/junction works only) at Wrafton Laboratories Ltd, Wrafton, Braunton, EX33 2DL | Outline +S106 Approval | 25 September 2001 |
| 32427 | Alterations & additions to external lighting scheme at Wrafton Laboratories Ltd, Wrafton, Braunton, EX33 2DL | Full Planning Approval | 3 July 2002 |
| 45341 | Erection of office building & associated access walkway together with alterations to car parking at Perrigo (formerly Wrafton Laboratories Ltd), Wrafton, Braunton, EX33 2DL | Full Planning Approval | 19 December 2007 |
| 52823 | Extension of time limit for implementation of Outline Planning Permission 28208 - extension to existing industrial premises (amended plans in relation to highway/junction works only) at land at Wrafton Laboratories Ltd, Exeter Road Braunton Devon | Outline +S106 Approval | 21 December 2012 |
| 70513 | Formation of Roundabout at A361 Junction to Perrigo, Exeter Road Braunton EX33 2DL | Approved | 26 June 2020 |
| 74005 | Prior Notification for installing a roof mounted 5837 kWp solar photovoltaic system on non-domestic building to reduce electricity costs at Perrigo Exeter Road, Braunton Devon EX33 2DL | Prior Approval Not Required | 1 November 2021 |
| 74598 | Installation of ground mounted solar panels at Perrigo, Exeter Road, Braunton Devon EX33 2DL | Approved | 15 March 2022 |
| 74742 | Two storey extension to building for use classes E(g)(i) and E(g)(ii) for office and laboratory accommodation with associated single storey plant room together with localised external landscape works at Perrigo UK, Wrafton, Braunton Devon EX33 2DL | Approved | 10 May 2022 |
| 75275 | Approval of details in respect of discharge of condition 4 Landscape and Ecological Management Plan (LEMP) attached to planning permission 74598 Installation of ground mounted solar panels at Perrigo Exeter Road, Braunton, Devon EX33 2DL | Approved | 26 May 2022 |

Constraints/Planning Policy

| Constraint / Local Plan Policy | Distance (Metres) |
|--|--------------------------|
| Advert Control Area Area of Special Advert Control | Within constraint |
| Chivenor Safeguard Zone Consultation Any Development | Within constraint |
| Chivenor Safeguard Zone Consultation Structure or works exceeding 15.2m | Within constraint |
| Class I Road | |
| Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1890 | 5.15 |
| Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1905 | 5.15 |
| Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1963 | 5.15 |
| Landscape Character is: 4A Estuaries | Within constraint |
| Landscape Character is: 4B Marine Levels & Coastal Plains | Within constraint |
| Landscape Character is: 7 Main Cities and Towns | Within constraint |
| MOD Land, consultation required | Within constraint |
| Unclassified Road | |
| USRN: 27504152 Road Class:G Ownership: Highway Authority | 4.93 |
| USRN: 27504248 Road Class:Q Ownership: Private | Within constraint |
| USRN: 27505783 Road Class:YFP Ownership: Highway Authority | 5.50 |
| USRN: 27506495 Road Class:A Ownership: Highway Authority | 11.57 |
| Within Adopted Coast and Estuary Zone | Within constraint |
| Within adopted Development Boundary: Wrafton Development Boundary ST07 | Within constraint |
| Within Adopted Employment Allocation: BRA01 Land east of Staggers Lane | Within constraint |
| Within Adopted Unesco Biosphere Transition (ST14) | Within constraint |
| Within Braunton Burrows Zone of Influence | Within constraint |
| Within Surface Water 1 in 100 | Within constraint |
| Within Surface Water 1 in 1000 | Within constraint |
| Within Surface Water 1 in 30 | Within constraint |
| Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant | Within constraint |
| Within: Braunton Burrows, SAC 10KM Buffer if agricultural development consider need for AQIA | Within constraint |
| | |
| SSSI Impact Risk Consultation Area | Within constraint |
| | |
| BRA - Braunton and Wrafton Spatial Vision and Development Strategy BRA02A - Land East and West of Staggers Lane DM01 - Amenity Considerations DM02 - Environmental Protection | |

| Constraint / Local Plan Policy | Distance (Metres) |
|--|--------------------------|
| DM03 - Construction and Environmental Management DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM07 - Historic Environment DM08 - Biodiversity and Geodiversity DM08A - Landscape and Seascape Character DM10 - Green Infrastructure Provision ST01 - Principles of Sustainable Development ST02 - Mitigating Climate Change ST03 - Adapting to Climate Change and Strengthening Resilience ST04 - Improving the Quality of Development ST05 - Sustainable Construction and Buildings ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres ST08 - Scale and Distribution of New Development in Northern Devon ST09 - Coast and Estuary Strategy ST10 - Transport Strategy ST11 - Delivering Employment and Economic Development ST14 - Enhancing Environmental Assets ST15 - Conserving Heritage Assets ST16 - Delivering Renewable Energy and Heat ST17 - A Balanced Local Housing Market ST18 - Affordable Housing on Development Sites | |

Consultees

| Name | Comment |
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| Councillor A Davis | No comments received. |
| DCC - Development Management Highways Reply Received 15 February 2023 | 15/02/2023 11:18 - This has previously been advised as 'Standing Advice'. There are no objections to the proposed development by Development Management (Highways). |
| DCC - Lead Local Flood Authority Reply Received 19 January 2023 | Recommendation: Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered. Observations: |

| Name | Comment |
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| | <p>The applicant has not discussed surface water management. Aswale, or swales, should be constructed along the downstream slopes of the site. These swales should be designed to capture overland flows of surface water. Tussockygrasses should be established throughout the site.</p> <p><u>Updated Response - 05/05/2023:</u></p> <p>Recommendation: Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission: ? No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction, has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system shall then be constructed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority, and shall thereafter be so maintained. Reason: To ensure that surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area. Observations: Following my previous consultation response (FRM/ND/76423/2023; dated 19th January 2023), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful. The applicant has proposed tussocky grasses, swales and infiltration basins to manage surface water. Surface water will need to be appropriately managed during the construction stage to prevent sediment, debris and litter from entering surrounding drainage features and watercourses.</p> |
| <p>Defence Estates Air & Land Safeguarding</p> <p>Reply Received 8 March 2023</p> | <p>I can confirm the MOD has no safeguarding objections to this proposal. The MOD must emphasise that the advice provided within this letter is in response to the data and/or information detailed above/in the developer's document titled design and access statement Dated 23/12/2022. Any variation of the parameters (which include the location, dimensions, form, and finishing materials) detailed may significantly alter how the development relates to MOD safeguarding requirements and cause adverse</p> |

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| | <p>impacts to safeguarded defence assets or capabilities. In the event that any amendment, whether considered material or not by the determining authority, is submitted for approval, the MOD should be consulted and provided with adequate time to carry out assessments and provide a formal response.</p> |
| <p>Designing Out Crime Officer</p> <p>Reply Received 10 January 2023</p> | <p>I have no objections in principle to the proposal. Solar installations, by their very nature and location, are potentially vulnerable to criminal attack and so any appropriate means of preventing/deterring this is in principle supported.</p> <p>I note that proposed fencing and gates for perimeter demarcation. I would advise that security fences incorporate a PID system. PID is a Perimeter Intrusion Detection System, it is series of fence mounted sensors that monitors and detects any form of intrusion from the perimeter and then can provide a real time alert of this. Where appropriate and feasible, buildings should be protected by an intruder alarm, this is recommended to be monitored and compliant with current National Police Chiefs Council guidance. The buildings should also have robust external doors/windows. These are advised to meet an appropriate security standard such as LPS 1175 or equivalent.</p> <p>It is recommended consideration is given to the inclusion of a CCTV system designed in co-ordination with external lighting and landscaping. A passport for compliance document, previously known as an Operational Requirement (OR), should be drawn up prior to installation to ensure any system will be fit for purpose. Consideration should also be given to incorporating a movement activated audio challenge system as part of the overall security strategy.</p> <p>I would suggest that the above brief guidance should also be applied to any compounds during the construction phase of any approved project.</p> |
| <p>Environment Agency</p> | <p>No comments received.</p> |
| <p>Environmental Health Manager</p> <p>Reply Received 25 May 2023</p> | <p>1 Glint and Glare</p> <p>Solar panel arrays have the potential to reflect sunlight in ways that can cause glint or glare problems at sensitive receptor locations in the vicinity. I note you have consulted Defence Estates, Chivenor and received a response confirming they do not have concerns based on the information provided.</p> <p>Based on the information provided on the potential for the panels to reflect light and the location of the application site relative to existing residential receptor locations, I do not expect any significant glint or glare problems to arise from an environmental health perspective.</p> <p>I recommend any permission include a condition along the following lines as a safeguard to cover the eventuality that the</p> |

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| | <p>installation causes any significant glint or glare problems in practice:</p> <ul style="list-style-type: none"> - Glint and Glare Condition <p>In the event that the operator is notified in writing by the Local Planning Authority that the authority is satisfied that a glint and/or glare problem is being caused by the approved development, a Glint and Glare assessment shall be prepared and submitted to the Local Planning Authority for written approval. The assessment report shall be prepared by a suitably qualified and experienced person having regard to relevant standards and good practice guidance. The assessment report shall be submitted to the Local Planning Authority within 3 months of receiving notification of a problem existing. The report shall include details of proposed mitigation measures for addressing any unacceptable impacts identified by the assessment. Approved mitigation measures shall be fully implemented within 1 month of receiving written approval of the mitigation scheme from the Local Planning Authority.</p> <p>Reason: To ensure that any Glint or Glare impacts which may be identified are properly mitigated throughout the lifetime of the application in the interests of the appearance of the countryside, and of the amenity of the area and any neighbouring living conditions or highway conditions in accordance with policies ST04, DM01, DM04, DM05 and DM08A of the North Devon and Torridge Local Plan.</p> <p>2 Operational Noise</p> <p>Based on the location of the application site relative to the closest residential receptor locations, I do not have concerns about noise from an Environmental Health perspective..</p> <p>3 Construction Phase Impacts</p> <p>In order to protect the amenity of the area with respect to the potential effects of dust, noise and any other amenity impacts generated by development works, I recommend the following condition be included on any permission:</p> <ul style="list-style-type: none"> - Construction Management Plan Condition <p>Prior to the commencement of development, including any site clearance, groundworks or construction (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Management Plan (CMP) detailing how development works will be managed during the life of the works shall be submitted in writing for the approval of the Local Planning Authority. For the avoidance of doubt and where relevant, the CMP shall include:-</p> <ul style="list-style-type: none"> a) details of control measures for addressing fugitive dust from earthworks and construction activities; b) a noise control plan which details hours of operation and proposed mitigation measures; |

| Name | Comment |
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| | <p>c) specified parking for vehicles associated with the development works;</p> <p>d) details of measures to prevent mud contaminating public footpaths and roads;</p> <p>e) arrangements for materials deliveries, storage and waste materials removals;</p> <p>f) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.</p> <p>The details so approved and any subsequent amendments as shall be agreed in writing by the Local Planning Authority shall be complied with in full and be monitored by the applicants to ensure continuing compliance throughout and until completion of the development.</p> <p>Reason: To minimise the impact of the works during the construction of the development in the interests of highway safety and to safeguard the amenities of the local area from potential impacts whilst site clearance, groundworks and construction is underway.</p> |
| <p>Heanton Punchardon Parish Council</p> <p>Reply Received 19 January 2023</p> | <p>Recommendation from Heanton Punchardon Parish Council 76423 - Perrigo Exeter Road APPROVAL</p> |
| <p>Heritage & Conservation Officer</p> <p>Reply Received 7 February 2023</p> | <p>7/02/2023 15:39 - This application site does not contain any designated heritage assets in its own right, but it is part of the wider landscape setting of a nationally important heritage asset - the grade I listed Church of St Augustine to the north, and the Heanton Conservation Area within which it stands. The site itself lies to the south of the A361, and is just to the east of the Perrigo factory. Further to the east is the housing and new industrial estate at Tinever Road, which has also had a recent application for expansion (76158).</p> <p>Whilst the provision of PV panels does have obvious environmental benefits in terms of energy supply, there is also an environmental harm that would result, in terms of effect on overall landscape character. There is a definite change in appearance and character from an agricultural field to the site of a large solar array - the landscape changes from rural to developed, on an industrial scale. The remaining green space which currently separates the two industrial areas of the Perrigo factory and the Tinever Road estate will be significantly diminished, both in its physical properties, and in meaningfulness.</p> <p>The resultant urbanisation of the area between Wrafton and Chivenor will have an effect on the wider landscape setting of the</p> |

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| | <p>heritage assets nearby. The church in particular has an impressively high tower, built to be a dominant landmark over a rural parish, mainly agricultural in character with defined and separate settlements. Inevitably this has changed over the years, which means that the surviving farmland, undeveloped spaces and features like the large hedge-banks and the copse on the north side of the A361 have increased in significance.</p> <p>This proposal will not preserve the current, or what remains of the historic undeveloped, setting in which the heritage assets are experienced. It will have an effect on their significance, which in my view is within the range of less than substantial harm. Therefore under the terms of paragraph 202 of the NPPF, the public benefits of this proposal would need to be weighed in the balance against this harm, when any decision is made.</p> |
| <p>Natural England</p> <p>Reply Received 26 January 2023</p> | <p>Designated sites – no objection subject to mitigation</p> |
| <p>Planning Policy Unit</p> <p>Reply Received 17 March 2023</p> | <p>Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan in the determination of a planning application then the determination must be made in accordance with the development plan unless material considerations indicate otherwise. As you are aware, the Council has an adopted Local Plan (October 2018) which was considered by the Inspector to be 'Sound' and in general conformity with the NPPF; therefore, policies in the Local Plan are up to date. The NPPF is a material consideration in planning decisions as is the fact that the Council cannot clearly demonstrate a 5 year supply of deliverable housing sites.</p> <p>As you are aware, the site is within the defined development boundary for Braunton & Wrafton where Policies ST01, ST02, ST06 and BRA apply. Policy BRA enables the growth of high quality development supported by necessary infrastructure to meet the needs of Braunton and Wrafton. The spatial vision for Braunton and Wrafton will be delivered through the provision of a minimum of 390 dwellings, including affordable homes to meet the community needs.</p> <p>The site provides the principal part of the mixed-use allocation for approximately 220 dwellings, including affordable housing and approximately 2 hectares of land for economic uses for the future expansion plans of Perrigo. As set out within Policy BRA(c), the site east and west of Staggers Lane (BRA02A) forms part of two strategic extensions to the south-east of Braunton and Wrafton to accommodate approximately 370 new family dwellings and serviced employment land supported by required physical, social and green infrastructure. Clearly, this site is required to deliver a</p> |

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| | <p>large part of the housing provision for Braunton and Wrafton as set out within Policy BRA.</p> <p>Also, this site is important as part of the overall housing supply for northern Devon over the plan period. Whilst it is accepted that the site was not likely to contribute to the Council's immediate 5 YHLS of deliverable housing sites, from a policy perspective there is concern regarding the potential loss of this site to deliver much needed family housing, including affordable housing together with physical, social and green infrastructure not only to meet the needs of Braunton and Wrafton but the wider northern Devon.</p> <p>However, policy also recognise the importance of Perrigo to the northern Devon economy and the highly skilled jobs it provides (Policy ST11, DM12). Policy also recognises the ongoing concerns with the increasing cost of energy and the need for long-term energy security of the business.</p> <p>From a policy perspective, I would suggest the acceptability of this current proposal is very finely balanced between the importance of delivering much needed housing in Braunton and Wrafton as set out within Policy BRA02A and the need to ensure the long-term future prosperity of Perrigo and the economy of northern Devon and the retention of much needed highly skilled jobs.</p> <p>I would suggest the agent should very clearly evidence the importance of the solar array to the long-term future of Perrigo and in the planning balance, the benefits of the proposal would significantly and demonstrably outweigh the harm as set out above.</p> |
| <p>South West Water</p> <p>Reply Received 6 January 2023</p> | <p>With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.</p> <p>Asset Protection Please find attached a plan showing the approximate location of a public 400mm sewer in the vicinity. South West Water will need to know about any building work over or within 3 metres of a public sewer or lateral drain.</p> <p>We will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.</p> <p>Further information regarding South West Water's build over of sewers process can be found on our website via the following link:</p> <p>www.southwestwater.co.uk/buildover</p> |

| Name | Comment |
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| | <p>Should you require any further information, please contact our Asset Protection Team via email: DeveloperServicesAssetProtection@southwestwater.co.uk.</p> |
| <p>Sustainability Officer</p> <p>Reply Received 9 February 2023</p> | <p>9/02/2023 15:41 - The submitted Preliminary Ecological Appraisal (PEA) and subsequent protected species surveys concludes that the site and its boundaries currently provide opportunities for protected species and appropriate recommendations for mitigation and enhancement are included. The PEA is not informed by detailed plans and is clearly intended to inform a residential development rather than the proposed solar PV array and therefore some of the recommendations relating to green infrastructure are not specifically relevant. The current proposal is unlikely to lead to any significant loss of boundary hedgerows or trees and the use of pile driven framework mounts further potential reduces habitat loss.</p> <p>The PEA states that green corridors of 10m e.g., rough grassland with occasional trees, orchard or similar should be provided along the east and south boundaries of the site, to provide landscape permeability across the site for bats. The buffers should remain dark, i.e., less than 0.5 lux to ensure that foraging and commuting light sensitive bats, including greater horseshoe bats, are not adversely affected. The current Landscape Plan and LEMP states that a 'minimum 4m buffer strip between proposed fence and hedgerow' which significantly reduces the extent of commuting and foraging space for bats below the PEA recommended 10m. Any proposed reduction in required green corridors should be supported by evidence from the applicants Ecologist. The current application does not appear to include proposals for any external lighting and this should be controlled by an appropriately worded condition.</p> <p>PEA recommendations for protected species habitat enhancements are on a per dwelling basis. However, the submitted Landscape Plan clearly demonstrates an appropriate provision of reptile hibernacula and log/brush piles, and tree mounted bat and bird boxes. The LEMP also specifies that the proposed boundary security fencing will have 100mm x 100mm gaps in fence at 5-10m intervals at ground level to allow the movement of hedgehogs and other small mammals/wildlife around the site. The LEMP should be revised to ensure that all protected species habitat enhancements are monitored and reported to the LPA.</p> <p>The submitted LEMP includes an updated ecological survey undertaken in November 2022 and informs the BNG calculation. Adherence to the LEMP would result in a 261.99% net gain for habitat units and a 49.73% net gain for hedgerow units. Landscaping will enhance the habitat value of the site through creation of grassland around the solar panels and hedgerow margins, planting a new species-rich Devon bank hedgerow along the western boundary of Parcel Db, and the enhancement of</p> |

| Name | Comment |
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| | <p>existing boundary hedgerows through additional planting of native woody species. The submitted LEMP should be revised to include treatment specifications for the area of three-cornered garlic to ensure it is not spread into the wild.</p> <p>Further opportunities for tree planting should be considered alongside the proposed retained hedgerow enhancement. Introducing standard trees within the retained northern and eastern boundaries would provide a break in views across the site and help to reduce the extent of landscape and heritage effects resulting from the proposal in-combination with further development to the east.</p> <p>The Sustainability Officer has agreed that, in this instance, planning permission can be granted subject to a pre-commencement condition requiring the submission of a LEMP.</p> |

Neighbours / Interested Parties

| Comments | No Objection | Object | Petition | No. Signatures |
|----------|--------------|--------|----------|----------------|
| 0.00 | 1 | 1 | 0.00 | 0.00 |

The application has attracted 2 letters of representation, with 1 being in objection and 1 in support, raising the following matters:

- The proposal will evidently impact upon the full delivery of the wider allocation in the Local Plan under Policy BRA02A, given the location and the significant land take;
- Envisage a conflict between the solar panel and the allocated residential/employment uses;
- Support this application in principle, glad to see the use of renewable energy as the main source of power for this local business;
- Support the conclusion of the submitted Preliminary Ecological Appraisal and that a detailed Ecological mitigation and Enhancement Strategy should be made a condition of planning permission.

Considerations

Proposal Description

This application seeks detailed planning permission for the erection of ground mounted solar panels.

As described in the Planning Statement supporting this application:

‘The proposed development will consist of:

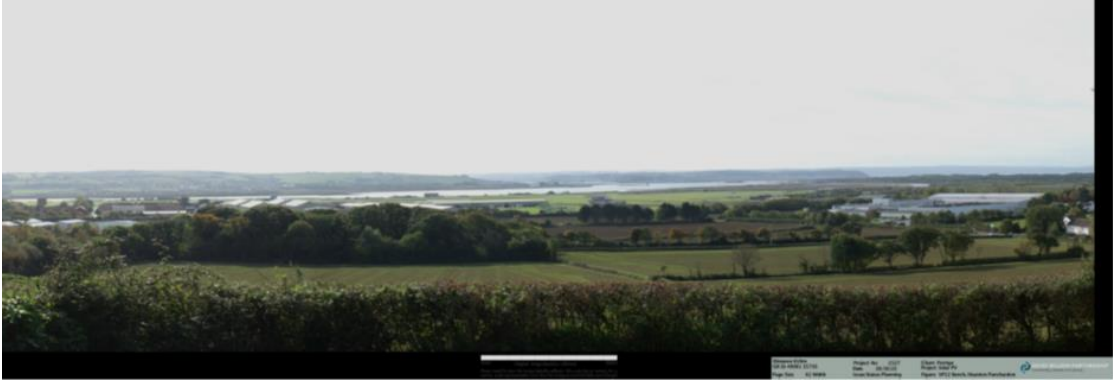
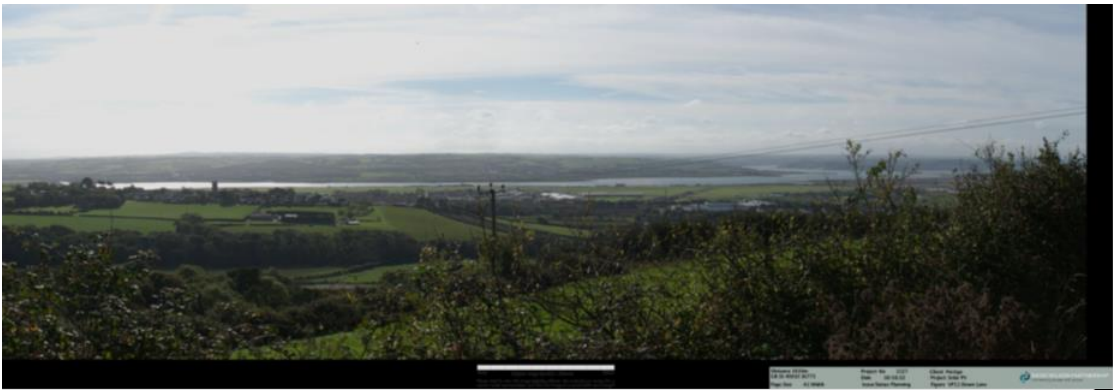
- An array of ground-mounted solar photovoltaic panels covering an area of approximately 7.8 hectares. The solar panels will be south facing and mounted at an

angle of 20 degrees with a maximum height of 2.5m. Each row will be approximately 4m apart. The panels are mounted onto frames that are fixed to the ground with piles;

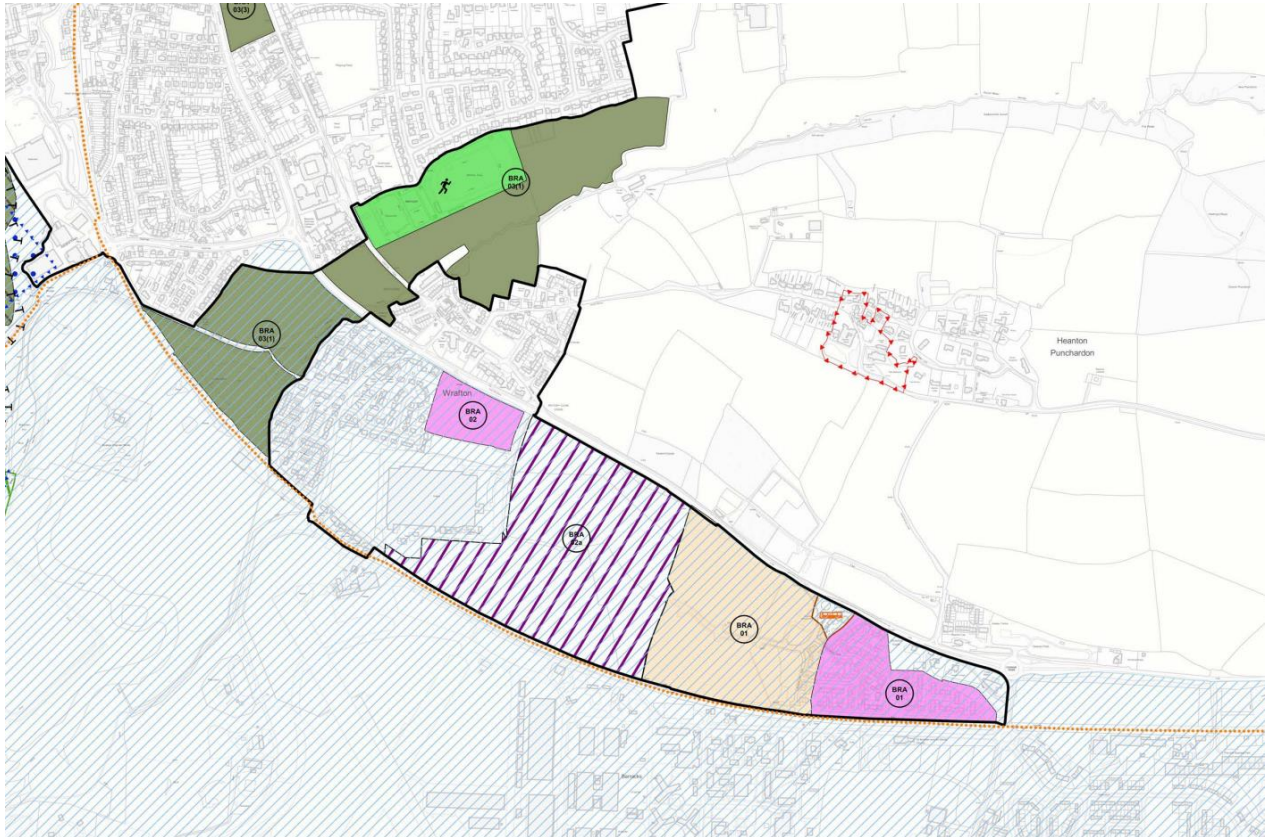
- String inverters that are attached to the back of the panel frames to convert the Direct Current (DC) electricity to electricity with an Alternating Current (AC);
- GPR Enclosure containing solar panel control systems;
- Electrical cables mounted behind the panels or underground across the site; and
- Green mesh perimeter fence in the style of a deer fence.

The total solar array would have a rated capacity of up to 6283970kWh and consists of 14764 panels in total'.





The site is located within the development boundary of Braunton and Wrafton as identified in Policy Map 3 of the North Devon and Torridge Local Plan (below). The site is also located within the adopted Coast and Estuary Zone and within the Braunton Burrows Zone of Influence.



Planning Considerations Summary

- Principle of development
- Design and Landscape
- Heritage Assets
- Amenity
- Ecology
- Flood risk and drainage
- Highways/parking

Planning Considerations

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

The National Planning Policy Framework (NPPF) is a material consideration.

Principle of development

As stated above, in the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. In addition, paragraph 47 of the National Planning Policy Framework (NPPF) states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

As detailed in paragraphs 8 to 10 in the NPPF, achieving sustainable development means that the planning system has three overarching objectives (social, economic and environmental perspectives), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). It is particularly noted that: 'Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

At a local level, Policy ST01 of the North Devon and Torridge Local Plan (NDTLP) emphasises that development proposals will be considered with a presumption in favour of sustainable development, as contained in the NPPF.

Policy ST16: Delivering Renewable Energy and Heat) (set out below) of the Local Plan, relates more specifically to renewable energy proposal and seeks to support all forms of renewable energy and renewable heat development (with the exception of wind energy).

Policy

Policy ST16: Delivering Renewable Energy and Heat

- (1) Proposals for development incorporating on-site provision of renewable energy (other than wind energy) or renewable heat and/or low carbon technologies will be supported and encouraged where appropriate.
- (2) Proposals by community-led enterprises and schemes that meet the needs of local communities to offset their energy and heat demand from renewable and low carbon sources (other than wind energy) will be supported where appropriate.
- (3) Renewable and low carbon energy and heat generating development (other than wind energy) will be supported in the landscape character types where:
 - (a) landscape sensitivity is best able to accommodate them, assessed in accordance with the Councils' Landscape Sensitivity Assessments and by the landscape's sensitivity to accommodate the scale of development;
 - (b) there is no significant impact on local amenities; and
 - (c) the special qualities of nationally important landscape, biodiversity and heritage designations and their settings are conserved or enhanced.
- (4) Renewable and low carbon energy development (other than wind energy) will be supported where it can demonstrate that the cumulative impact of operational, consented and proposed development on landscape character does not become a significant or defining characteristic of the wider fabric, character and quality of the landscape.

The application site is located within the Main Centre of Braunton and Wrafton wherein Policy ST06 of the Local Plan (Spatial Development Strategy for Northern Devon's Sub-regional, Strategic and Main Centres) states that development will be supported where it increases the towns' capacities to increase self-containment, to meet their own needs and those of surrounding communities where such is sought through the local vision.

Perrigo is recognised in paragraph 10.154 of the Local Plan as a 'well established major employer specialising in pharmaceuticals'.

Policy BRA02A of the Local Plan (Land East and West of Staggers Lane) allocates this land (the subject of this application) for housing and economic development.

Policy

Policy BRA02A: Land East and West of Staggers Lane

Land East and West of Staggers Lane (approximately 15 hectares), as identified on Policies Map 3, will be planned comprehensively to deliver a mixed-use development that includes:

- (a) approximately 220 dwellings on land east of Staggers Lane, the size and tenure of which will be reflective of local needs;
- (b) approximately 2 hectares of employment land south of Perrigo for its future expansion;
- (c) vehicular access from an improved junction at Rectory Close Cross together with the provision of a pedestrian crossing of the A361;
- (d) noise attenuation measures along the northern, western and eastern boundaries of land east of Staggers Lane;
- (e) a sustainable water strategy that reduces water usage, incorporates sustainable drainage systems and does not increase the risk of flooding elsewhere in the locality;
- (f) enhancing the existing network of local and strategic green infrastructure through and around the site including the provision of public open spaces and an enhanced biodiversity network;
- (g) new footpath and cycle access onto the Tarka Trail;
- (h) an opportunity being safeguarded for future vehicular access and/or pedestrian access to land east of the site; and
- (i) social and community facilities required to support new development including contributions towards the expansion of Braunton Academy and primary and early years provision.

Functional Need - Perrigo and Renewable Energy Provision

The Design and Access Statement supporting the application justifies the development as follows:

'This proposal is for infrastructure to allow for the generation of electricity from renewable energy. The application is for a solar array and those other elements required for its construction, operation and maintenance.'

The operation of the solar farm would utilise approximately 7.8ha of land which is currently agricultural land. The installation of the solar panels will contribute to the maintenance and upkeep of the site with new planting and vegetation proposed to enhance biodiversity.

The location of the proposal is technically and economically viable with the design aiming to minimise environmental and social impacts where possible. The solar panels aim to provide a renewable energy source to the Perrigo manufacturing plant, bettering their environmental impact but also helping them reduce their energy costs from an economic point of view.

Whilst Para 154 (NPPF) states that Local Planning Authorities should 'not require applicants to demonstrate the overall need for renewable or low carbon energy'. The current rise in energy prices have enhanced the importance of renewable energy sources which will be invaluable to helping support Perrigo's manufacturing costs.

The applicant has also stated that the saving made from the solar panels will, in the first 5 years, be used to repay the initial investment in the proposed installation. However, the installation has a 30 year life-span and beyond year 5 this will be a saving to the business; making it more resilient in an increasingly competitive market place. Thus, the development will serve to protect the local jobs and the part the facility plays in the local and wider economy. In an email received by the Council dated 25/05/2023, the Agent confirms the position of Perrigo as follows:

'The Council should be aware that while the Wrafton site is Perrigo's main manufacturing plant in the UK, Perrigo is an American company and a global player in the manufacture of pharmaceuticals. Accordingly, the US board is constantly reviewing the viability of sites and where future investment is best made. In particular Wrafton fights for investment against similar plants in France, Belgium, Austria and Germany plus plants further east.

The thrust of my argument is that the sale of the land for housing compromises the long-term retention of the Wrafton facility in North Devon. Using the land for solar means the land is kept available to meet the changing needs of the company. Further, the solar reduces carbon emissions and off-sets increasing energy costs. This improves the sites viability and makes continued investment in the site attractive for the parent company in the long term.

Conversely, selling the land for housing, whilst providing a cash lump sum, does not aid the long-term viability of the site. With the land sold the options for expansion and/or energy off-setting are significantly reduced. This makes the site less attractive for long term investment over other sites in the company's portfolio.

Regarding improved viability of the site the best way to think about this is with regard to energy cost. The annual energy bill for this site alone used to be in the order of £740k. Of late this cost has increased to £1.6M. Unlike elsewhere in Europe the UK Government are not helping to offset that cost increase. Wrafton is thus a less attractive proposition within the portfolio. However, where the solar is installed the situation is reversed in so much as Wrafton can demonstrate the facility is more viable and resilient to the vagaries of the energy market. Other manufacturing plants within the Perrigo portfolio do not have this as an option. Accordingly, the retention of the land and its use for solar helps secure the future of the Wrafton plant while also protecting the delivery of a measure of affordable homes around the site'.

Officers concur that the proposal will promote an opportunity for renewable and low-carbon energy generation for Perrigo as a business and supports the principle of sustaining the business for the future. Policy ST11 (Delivering Employment and Economic Development Employment) of the Local Plan supports the growth, expansion of existing businesses, such as Perrigo, in stating that 'support will be given to existing sectors to ensure that they continue to flourish and grow in a sustainable manner. The modernisation of employment sites will be encouraged in order to meet current and future business needs'.

Summary - Perrigo and Reusable energy provision

The proposal offers a sustainable energy option for Perrigo that will significantly reduce its running costs for the next 30 years. This scheme offers opportunity to show that North Devon is committed to reducing its carbon footprint and is actively promoting renewable energy schemes. The proposal will result in an increase in generation of a clean source of renewable energy for Perrigo. The scheme will contribute positively towards the provision of

Renewable Energy to meet the National aims of reducing Greenhouse gasses, and towards the Strategic Vision for North Devon with regard to renewable energy sources. The developer has also provided evidence that a result of providing a more self-proficient business will strengthen the position of Perrigo within its field, and other competitors within this market.

The principle of the development of a renewable energy option for Perrigo is therefore acceptable, in accordance with policies ST01, ST02, ST11 and ST16. However, as discussed, the application site is allocated for mixed use development, as identified in policy BR02A (Land East and West of Staggers Lane), and therefore matters of this allocated site need to be considered in the determination of this application.

Allocation of the site within the Local Plan

Policy BRA02A of the Local Plan (Land East and West of Staggers Lane) allocates this land for housing and economic development.

The Planning Policy unit have offered the following comments:

'The site is within the defined development boundary for Braunton & Wrafton where Policies ST01, ST02, ST06 and BRA apply. Policy BRA enables the growth of high quality development supported by necessary infrastructure to meet the needs of Braunton and Wrafton. The spatial vision for Braunton and Wrafton will be delivered through the provision of a minimum of 390 dwellings, including affordable homes to meet the community needs.

The site provides the principal part of the mixed-use allocation for approximately 220 dwellings, including affordable housing and approximately 2 hectares of land for economic uses for the future expansion plans of Perrigo. As set out within Policy BRA(c), the site east and west of Staggers Lane (BRA02A) forms part of two strategic extensions to the south-east of Braunton and Wrafton to accommodate approximately 370 new family dwellings and serviced employment land supported by required physical, social and green infrastructure. Clearly, this site is required to deliver a large part of the housing provision for Braunton and Wrafton as set out within Policy BRA.

Also, this site is important as part of the overall housing supply for northern Devon over the plan period. Whilst it is accepted that the site was not likely to contribute to the Council's immediate 5YHLS of deliverable housing sites, from a policy perspective there is concern regarding the potential loss of this site to deliver much needed family housing, including affordable housing together with physical, social and green infrastructure not only to meet the needs of Braunton and Wrafton but the wider northern Devon.

The principle consideration of this application is the balance between the need for the need for the solar panels against the need for residential development as required in the Local Plan'.

As stated above, the allocation of this policy is unlikely to contribute to the provision to the Council's immediate 5YHLS of deliverable housing sites; however, would provide much needed housing provision within the locality.

In addition, during the course of the application the Council issued a new five year housing land supply statement confirming that it is now able to demonstrate a supply of 5.9 years. The policies of Local Plan relating to housing provision therefore hold significant weight in the determination of the application.

A letter of objection has been received from the Diocese of Exeter, who are the primary land owners of the remainder of the land within the allocation. Their comments are as follows:

'The proposed development of the solar farm will evidently impact upon the full delivery of the wider allocation provided for in your Local Plan under Policy BRA02A, given the location of the proposals and significant land take. The proposed solar farm would swallow up much of the mixed-use allocation. In addition, in its current form, we envisage a conflict between the solar panels and the allocated residential/employment uses'.

In response the Perrigo have offered the following comments:

'The use of the Perrigo owned land for solar does not prevent the development of the neighbouring Diocese land for housing, including affordable housing. The Diocese own the Glebe field which is covered by NDTLP Policy BRA02. This land will deliver in the order of 50 homes, including 16 affordable homes. The Perrigo submission will not impact on the delivery of these homes. Regarding the land covered by NDTLP Policy BRA02A the Diocese own 4.5Ha (37%) of the 12Ha allocation. This means that of the planned 220 homes the allocation can still deliver 82 homes, of which we'd expect 25 homes to be affordable'.

In having regard to the above, it is reasonable that a collaborative approach by the land owners of the entire allocation would lead to a more successful delivery of the policy intent to deliver housing.

However, the submission of this current application together with the statements supporting are clear in Perrigo's intent not to develop this site for that as allocated and that the land has more value to the future of the business on this site as for the provision of an alternative energy source.

No evidence has been provided that supports the claims either way as to whether, the current application is approved and the solar array is developed, the remainder of the allocation could deliver a successful residential scheme. However, it is Officers opinion that it is likely that a residential scheme, albeit limited when compared to the allocation, may be able to be achieved to the north of the allocation site. However, to date, no planning permission, outline of full, has been submitted for such a proposal.

Summary - Allocation of the site within the Local Plan

Officers concur that the provision of the ground mounted solar panel will impact upon the allocated land (Policy BRA02) which forms the principal part of the mixed-use allocation for approximately 220 dwellings including affordable housing and approximately 2 hectares of land for economic uses for the future expansion plans of Perrigo. Whilst the site would not contribute to the immediate calculation for the 5 year housing land supply, 'the site as allocated would provide much needed family housing, including affordable housing, together with physical, social and green infrastructure not only to meet the needs of Braunton and Wrafton but the wider northern Devon'. However, given that no planning approval has been

granted to date for this site it is unknown to what extent a grant of planning permission of the solar array would have on the deliverability of these sites.

Summary of Principle of Development

This application is finely balanced between supporting the economic and social contribution that Perrigo makes to North Devon, together with the environmental gain of the reusable energy solution, and the allocation of the site for residential development through the Local Plan allocation.

Turning to the benefits the provision of a solar array, combined with that already existing on the site, would provide a more energy efficient building aiming towards the role in off-setting the increased running costs of the Wrafton facility. A more energy proficient business would not only contribute toward the global fight against climate change, but is also likely to serve to protect the retention of Perrigo 9 a well-established business/employer) within North Devon, and the social and economic role that it plays.

Turning to the adverse impacts, the development of the land to provide the solar panels would reduce the amount of residential development coming forward in the future as allocated in the Development Plan. The potential loss of this site to deliver much needed family housing, including affordable housing together with physical, social and green infrastructure not only to meet the needs of Braunton and Wrafton but the wider northern Devon.

Both of the above matters hold significant weight in the balancing of this application. However, Officers are of the opinion that the reduction of the carbon footprint of this business, including the reduction of the running costs of this business, would likely result in a more stable future for the retention of this major employer (and highly skilled jobs) within the District. Officers recommend that, in applying the tilted balance test on the principle of development, the functional need for the solar array outweighs the harm caused by the loss to the future housing land supply within the District, including affordable housing.

As discussed, the need for renewable energy does not automatically override the other perspectives of sustainability, such as the social and economic elements that could be achieved through the provision of residential development and the affordable housing, together with other on and off site contributions. Your Officers acknowledge that opportunities for Renewable Energy for Perrigo are strongly influenced by the availability of the natural resources (in this case an appropriate land mass), and the technology available to date requires the need for proposed scale of the array. The policy support for the renewable scheme must be balanced alongside the loss of a large portion of the allocated site; however, it is recognised that the functional need for the panels is based upon the current energy prices due to the unstable and fluctuating economic climate, and the technology available to date.

In having regard to the above, Officers consider it prudent that any grant of planning permission should be on a temporary basis to allow the matter of the functional need of solar energy, and the need for residential units and the provision of affordable housing and other on-site and possibly off-site provisions for the wider community, to be reconsidered after a period of 10 years. Any grant of planning permission should therefore be subject to a condition of approval that states that:

'When the land ceases to be used as a photovoltaic park for renewable power production or at the end of the period of 10 years from the date of connection (such

date to have been given to the Local Planning Authority within one month of grid connection) whichever shall first occur, the use hereby permitted shall cease and all materials and equipment brought on the land in connection with the use permitted shall be removed and the land restored to its previous state or as otherwise agreed, in accordance with details that have been submitted to and agreed in writing by the Local Planning Authority prior to the decommissioning works taking place. Such details shall include the time scale for decommissioning'.

This condition is reasonable and necessary to enable the Local Planning Authority to maintain control of development and to allow of the reassessment of the requirement of the solar panels against the visions, infrastructure delivery, employment opportunities, growth aspirations and for a change in energy consumption in the future, in accordance with policies ST01, ST02, ST06, ST11, ST16, of the North Devon and Torridge Local Plan.

Taking into consideration the provisions of both national and local policy, a solar PV development would be supported in principle, subject to further detailed consideration in relation to the following material matters.

Design and Landscaping

Policy ST04 of the Local Plan states that development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in policy DM04.

Policy DM04 of the Local Plan encourages good design and ensures that development proposals should be appropriate and sympathetic to setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood; reinforce the key characteristics and special qualities of the area in which the development is proposed; and contributes positively to local distinctiveness, historic environment and sense of place.

Policy ST16 of the Local Plan in relation to renewable energy proposals states that such development will be supported in landscape character types where:

'(a) landscape sensitivity is best able to accommodate them, assessed in accordance with the Councils' Landscape Sensitivity Assessments and by the landscape's sensitivity to accommodate the scale of development'.

The application site is within the Coast and Estuary Zone, where Policy ST09 (Coast and Estuary Strategy) of the Local Plan applies and states that 'the integrity of the coast and estuary as an important wildlife corridor will be protected and enhanced. The importance of the undeveloped coastal, estuarine and marine environments, including the North Devon Coast Areas of Outstanding Natural Beauty, will be recognised through supporting designations, plans and policies. The undeveloped character of the Heritage Coasts will be protected'.

The application has been supported by a Landscape and Visual Impact Assessment (LVIA), which is concluded as follows:

'A study of the baseline landscape and visual resource established that elements of the proposal that could potentially change the landscape and visual baseline include:

- *Change of use from arable fields to solar PV arrays.*
- *Construction of ground mounted arrays.*
- *Perimeter security fence.*
- *New hedge field boundary.*
- *Changes to hedgerow and grassland management.*

Site selection, site arrangement and outline design has taken into account the potential for adverse landscape and visual effects. The following measures and design decision have been taken to mitigate effects:

- *Selection of less sensitive site with existing access infrastructure in place:*
- *Selection of low lying site with strong hedgerow and tree structure, proposals for reinforced hedgerow screening:*
- *Retention of existing strong field boundaries and new boundary planting:*

Landscape Effects: are considered to be not significant. In summary:

- *The greatest scale of effect would be at the site level, with direct effects on the site and the immediately surrounding area. Predicted indirect effects are not widespread across the study area, but limited to some areas of higher ground to the north and south.*
- *The proposed development will lead to some loss and some alteration to individual landscape elements, features, and characteristics with some adverse effects. Taken together, these effects would not result in widespread or substantial degradation of the landscape resource.*

Visual Effects: Effects on visual receptors are considered to be not significant. In summary:

- *Adverse visual effects are not widespread through the study area. In most cases, views are from areas very close to the site, from short stretches of road or footpath or glimpsed through gateways. Visual effects will predominantly affect views close to the site.*
- *While adverse visual effects are predicted, taken together they will not lead to widespread or substantial degradation of the visual resource and will not harm the integrity of nationally or regionally important vistas.*

Taken separately and together, the landscape and visual effects predicted are judged to be equal to or less than those likely if the site were to be developed as the mixed use allocation in the local plan'.

Officers concur with the LVIA with regard to the impact upon the landscape from the longer viewpoints. However, it is a material consideration that given that the site is allocated for residential development, the degree of harm caused by the solar array in comparison to residential development would be more limited due to the difference in scale and form.

As noted by the Sustainability Officer, there are further opportunities for tree planting that should be considered alongside the proposed retained hedgerow enhancement. Introducing standard trees within the retained northern and eastern boundaries would provide a break in views across the site and help to reduce the extent of landscape and heritage effects

resulting from the proposal in-combination with further development to the east. A robust landscaping scheme would respond to the comments raised in the LVIA.

Such a planting and landscaping scheme can be delivered through a detailed Landscaping and Ecological Management Plan (LEMP), which can be secured through a condition of approval (see the Ecology section of this report).

In considering the findings of the LVIA, it is clear that, the size of the development does not allow it to be completely screened. The landscape harm and visual effect from the wider surrounding countryside would be moderate, and can partially be mitigated by the soft landscaping in the LEMP. There will be relatively moderate localised harm to visual amenity from PROW. The degree of harm caused to visual amenity would be limited when compared to a residential development as per the allocation of this site.

Heritage Assets:

National policy contained in the NPPF notes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be (paragraph 192). Further, any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.

Policy DM07 of the Local Plan reiterates the national guidance in relation to heritage assets and notes that;

'Proposals which conserve and enhance heritage assets and their settings will be supported. Where there is unavoidable harm to heritage assets and their settings, proposals will only be supported where the harm is minimised as far as possible, and an acceptable balance between harm and benefit can be achieved in line with the national policy tests, giving great weight to the conservation of heritage assets.'

Policy ST15 is also relevant, which relates to 'Conserving Heritage Assets'

The Heritage and Conservation Officer has raised concerns with regard to the impact upon the landscape character when viewed from the grade I listed Church of St Augustine to the north, and the Heanton Conservation Area within which it stands:

'Whilst the provision of PV panels does have obvious environmental benefits in terms of energy supply, there is also an environmental harm that would result, in terms of effect on overall landscape character. There is a definite change in appearance and character from an agricultural field to the site of a large solar array - the landscape changes from rural to developed, on an industrial scale. The remaining green space which currently separates the two industrial areas of the Perrigo factory and the Tinever Road estate will be significantly diminished, both in its physical properties, and in meaningfulness'.

In considering the comments of the Conservation Officer weight must be given to the protection of heritage assets, there is no direct substantial harm to the fabric or setting of a heritage asset (Heanton Church).

The less than significant impact on the setting of the listed buildings must be weighed in the planning balance. In this case, in accordance with paragraph 196 of the framework, the less

than significant impact on the heritage asset must be weighed in the planning balance, which is considered further in this report.

Amenity

Policy DM01 of the Local Plan (Amenity Considerations) states that development will be supported where:

- (a) it would not significantly harm the amenities of any neighbouring occupiers or uses; and
- (b) the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

The nearest residential buildings to this site are those of Wrafton Road, approximately 145m to the north. This is considered to be of a significant distance where the proposal will not cause harm to amenity.

The Ministry of Defence have raised no objections given the siting of the adjacent RMB Chivenor.

The Environmental Health Officer has commented on matters of glare, noise and construction impacts. With regard to matters of glint and glare, it is noted that solar panel arrays have the potential to reflect sunlight in ways that can cause glint or glare problems at sensitive receptor locations in the vicinity.

Officers do not expect any significant glint or glare problems to arise from the proposal. However, in accordance with the advice given by the Environmental Health Officer, it is recommended that any grant of planning permission is subject to a condition, as detailed below, as a safeguard to cover the eventuality that the installation causes any significant glint or glare problems in practice:

'In the event that the operator is notified in writing by the Local Planning Authority that the authority is satisfied that a glint and/or glare problem is being caused by the approved development, a Glint and Glare assessment shall be prepared and submitted to the Local Planning Authority for written approval. The assessment report shall be prepared by a suitably qualified and experienced person having regard to relevant standards and good practice guidance. The assessment report shall be submitted to the Local Planning Authority within 3 months of receiving notification of a problem existing. The report shall include details of proposed mitigation measures for addressing any unacceptable impacts identified by the assessment. Approved mitigation measures shall be fully implemented within 1 month of receiving written approval of the mitigation scheme from the Local Planning Authority.'

Reason: To ensure that any Glint or Glare impacts which may be identified are properly mitigated throughout the lifetime of the application in the interests of the appearance of the countryside, and of the amenity of the area and any neighbouring living conditions or highway conditions in accordance with policies ST04, DM01, DM04, DM05 and DM08A of the North Devon and Torridge Local Plan'.

With regard to Operational Noise, the Environmental Health Officer has noted that, based on the location of the application site relative to the closest residential receptor locations, the development is unlikely to cause a noise nuisance

Finally, Officers concur with the Environmental Health Officer with regard to that in order to protect the amenity of the area with respect to the potential effects of dust, noise and any

other amenity impacts generated by development works any grant of planning permission should be subject to a pre-commencement condition that requires a Construction Management Plan to be submitted to, and approved in writing by, the Local Planning Authority. Such a condition is reasonable and necessary to minimise the impact of the works during the construction of the development in the interests of highway safety and to safeguard the amenities of the local area from potential impacts whilst site clearance, groundworks and construction is underway.

In having regard to the above, and subject to the conditions as detailed, this proposal accords with the amenity considerations of policies DM01 and DM02 of the Local Plan.

Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

Policy DM08 of the Local Plan states that Adverse impacts on European and UK protected species and Biodiversity Action Plan habitats and species must be avoided wherever possible, subject to: (i) the legal tests afforded to them where applicable; or otherwise unless (ii) the need for and benefits clearly outweigh the loss. Also, where adverse impacts are unavoidable they must be adequately and proportionately mitigated, if full mitigation cannot be provided, compensation will be required as a last resort.

As previously stated, the site is located within the Coast and Estuary Zone wherein policy ST09 of the Local Plan states that the integrity of the coast and estuary as an important wildlife corridor will be protected and enhanced.

The application has been supported by a Landscape and Ecological Management Plan V1 (LEMP) by Richard Green Ecology Ltd dated 07/12/2022, together with a Preliminary Ecological Appraisal V1 (PEA) dated 22/11/2022. The application has also been supported by Landscaping Plan ref: P306 22 234 D.

The above documents and plan have been assessed by the Sustainability Officer, who, whilst not objecting to the proposal from an ecological perspective, noted some inconsistencies between the PEA and the LEMP that require attention, together with some additional information that is required in the LEMP. However, following discussions with both the Sustainability Officer and the Agent, it is agreed that, subject to a revised LEMP, it is likely that the proposal can deliver biodiversity net gain, whilst enhancing landscaping. In this instance, it is reasonable that any grant of planning permission be subject to a pre-commencement condition that states that:

'Prior to the commencement of development, including any site clearance and groundworks, a detailed landscape and ecological management plan (LEMP) accompanied by a detailed Landscape Plan shall have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The content of the LEMP will address and expand upon the provision and management of all landscape and biodiversity avoidance, mitigation and enhancement measures of the development as set out within the ecological appraisal and preliminary ecological appraisal shall include:

- a) *A detailed Landscaping Plan*
- b) *description and evaluation of landscape and ecological features to be created managed and ecological trends and constraints on site that might influence management;*
- c) *A Defra Biodiversity Net Gain Metric calculation;*
- d) *Aims and objectives of management;*
- e) *Appropriate management options for achieving aims and objectives;*
- f) *Prescriptions for management actions;*
- g) *Preparation of a work schedule (including an annual work plan capable of being rolled forward over an initial 10- year period);*
- h) *Details of the body or organization responsible for implementation of plan;*
- i) *Ongoing landscape and ecological monitoring and implementation of any necessary remedial measures;*
- j) *Means of reporting of landscape and ecological monitoring results to the Local Planning Authority and provisions for seeking written agreement to any changes to the management actions and prescriptions that may be necessary to ensure effective delivery of the aims and objectives of the LEMP over time.*

The LEMP shall also include details of the mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning landscape and biodiversity objectives of the scheme. The development shall be implemented in accordance with the approved details’.

This condition is reasonable and necessary in order to protect and enhance biodiversity on the site, and how the development will assimilate with the surrounding landscape including the Coast and Estuary Zone, in accordance with the aims of Policies ST04, ST09, ST14, DM04 and DM08 of the North Devon and Torridge Local Plan and paragraph 174 of the National Planning Policy Framework.

Subject to the above, it is unlikely that the development would result in harm to protected species, and the landscape character in which it is set.

Flood Risk and Drainage

The site is located within Flood Zone 1 and not within a Critical Drainage Area.

With regard to matters of drainage, following comments made by the Lead Local Flood Authority (LLFA) the applicant submitted a Flood Risk Assessment (FRA) by JRC Consulting Engineers (Report Ref: 2111w0001_P2). In response to this Assessment, the LLFA commented that: ‘The applicant has proposed tussocky grasses, swales and infiltration basins to manage surface water. Surface water will need to be appropriately managed during the construction stage to prevent sediment, debris and litter from entering surrounding drainage features and watercourses’.

The Lead Local Flood Authority have advised that any grant of planning permission should be subject to a pre-commencement condition that states that:

‘No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development’s

construction, has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system shall then be constructed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority, and shall thereafter be so maintained'.

Officers recommend that this condition is reasonable and necessary to ensure that surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area, in accordance with policy ST02 of the North Devon and Torridge Local Plan.

Highways

Policy DM05 of the Local Plan (Highways) states that: (1) All development must ensure safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians, and (2) All development shall protect and enhance existing public rights of way, footways, cycle ways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

Policy DM06 of the Local Plan (Parking Provision) states that development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to the:(a) accessibility and sustainability of the site; (b) availability of public transport; (c) provision of safe walking and cycling routes; and (d) specific scale, type and mix of development. Proposals must also encourage the use of sustainable modes of transport through careful design, layout and integration to the existing built form.

In reference to this proposal, Policy DM10 (Transport Strategy) of the Local Plan states that the transport strategy for North Devon will reduce the environment and social impact of transport by ensuring that access to new development is safe and appropriate.

The Highway Authority have raised no objections to this proposal. It is unlikely that this proposal will result in harm to highway capacity and safety, post development.

The Environmental Health Officer has recommended that any grant of planning permission be subject to a Construction Management Plan condition that requires further information on the following:

- a) details of control measures for addressing fugitive dust from earthworks and construction activities;
- b) a noise control plan which details hours of operation and proposed mitigation measures;
- c) specified parking for vehicles associated with the development works;
- d) details of measures to prevent mud contaminating public footpaths and roads;
- e) arrangements for materials deliveries, storage and waste materials removals;
- f) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.

Officers consider this to be reasonable and necessary to minimise the impact of the works during the construction of the development in the interests of highway safety and to safeguard the amenities of the local area from potential impacts whilst site clearance,

groundworks and construction is underway, in accordance with policies ST02 and ST10 of the North Devon and Torridge Local Plan.

Planning Balance:

Assessing the application against the relevant National and Development Plan policies, there are two principle considerations in balance; the first is the functional need of Perrigo and the environmental gain of the use of renewable energy sources; and the second being the allocation of the site for mixed use development, including the provision of housing; of which a proportion would be affordable housing. There are also a number of material factors which hold significant weight in determining this application as an approval.

This scheme accords with the provisions of the National Planning Policy Framework to contribute to the achievement of Sustainable Development, in presumption of the social, economic and environmental sustainable principles. The scheme will provide the following benefits which must be given sufficient weight in determining the application:

Benefits of delivering the scheme:

- This scheme offers opportunity to show that north Devon is committed to reducing its carbon footprint and is actively promoting renewable energy schemes. The proposal will result in an increase in generation of a clean source of renewable energy for Perrigo. The scheme will contribute positively towards the provision of Renewable Energy to meet the National aims of reducing Greenhouse gasses in accordance with part 14 of the framework and policies ST02, ST03, ST16 of the NDTLP.
- The development contributes positively towards the presumption in favour of Sustainable Development reflecting the 'Golden Thread' running through the framework in terms of social, economic and environmental objectives of the framework accordant with part 2 of the framework and with policy ST01 of the NDTLP.
- The site will utilise an existing power source in the vicinity of the site accordant with part 14 of the framework and ST16 of the NDTLP
- Perrigo is a major employer within the District that provides both economic and social role in the sustainable future of the District. It has been identified that the provision of the solar array will result in a more self-proficient business will strengthen the position of Perrigo within its field, and other competitors within this market.
- The site will require minimal removal and alteration of established hedgerows to enable access to the proposal. The site will deliver net biodiversity enhancement in the form of new habitat formation, and effective planting secured and delivered through a LEMP, which can be assessed and secured via a condition of approval, accordant with part 14 and 15 of the framework and policies ST14, ST23, DM08 and DM08A of the NDTLP.
- No Highway objections are received. There are no undue impacts to the local highway network as a result of the proposal accordant with policies ST10, DM05 and DM06 of the NDTLP.

- In terms of flood risk and drainage the scheme is broadly acceptable subject to the discharge of the condition are requested by the LLFA, accordant with part 14 of the framework and policies ST03 and DM04 of the NDTLP.
- The Impact on heritage Assets is not of undue significant substantial harm and will not lead to the loss of significance of a heritage asset accordant with part 16 of the framework and policies ST15 and DM07 of the NDTLP.
- Technical requirements and issues from statutory consultees, in respect of Environmental Health, Flooding and drainage, and Ecology can be dealt with through suitable planning conditions.

Potential harm:

- The development of this site as a solar array would result in the loss of a proportion of the allocation for residential development (Policy BRA02A of the NDTLP). Concern has been raised by the owners of the remainder of the allocated site with regard to the deliverability of residential development if the application were to be approved. No further evidence has been provided to support this claim.
- The loss of the part of the allocation would likely result in the loss of provision of affordable housing for this part of the District, together with other contributions both on-site and off-site.
- In considering the findings of the Landscape Visual Impact Assessment it is clear that, the size of the development does not allow it to be completely screened. The landscape harm and visual effect from the wider surrounding countryside would be moderate, and can partially be mitigated by the soft landscaping in the LEMP, There will be relatively moderate localised harm to visual amenity from PROW. The degree of harm caused to visual amenity would be limited when compared to a residential development as per the allocation.
- In considering the comments of the Conservation Officer weight must be given to the protection of heritage assets, there is no direct substantial harm to the fabric or setting of a heritage asset (Heanton Church). The less than significant impact on the setting of the listed buildings must be weighed in the planning balance. In this case, in accordance with paragraph 196 of the framework, the less than significant impact on the heritage asset must be weighed in the balance that this would not outweigh the significant benefits to be derived from providing this scheme.

Planning law requires that applications be determined in accordance with the development Plan unless material considerations indicate otherwise (Section 38 (6) of the Act and paragraph 47 of the framework).

This proposal would deliver the aims of delivering sustainable development to achieve the 3 overarching objectives of economic, social and environmental dimensions. Planning decisions should play an active role in delivering sustainable development and solutions such as the delivery of Renewable Energy.

Taking the above into account, on balance the delivery of the aims and objectives of the framework, and the benefits that would be derived from approval of this scheme outweigh the adverse effects identified, which would arise from the approval of this proposal.

The decision to limit the time period of the operation of this development to 10 years is considered reasonable to enable the Local Planning Authority to maintain control of development and to allow of the reassessment of the functional need of the panels, (in particular, an alternative energy source coming forward) against the visions, infrastructure delivery, employment opportunities, and growth aspirations for Northern Devon.

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Recommendation

Approved

Legal Agreement Required: No

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason :

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

211 0501 P2 Drainage Layout received on the 16/03/23

211 0500P2 Drainage Layout received on the 16/03/23

P306 22 231A Location Plan received on the 23/12/22

P306 22 234D Proposed Site & Landscaping Plan received on the 16/03/23

P306 22 237A Site Sections Parcel Db received on the 23/12/22

P306 22 236A Site Sections Parcel Da received on the 23/12/22

('the approved plans').

Reason:

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.

3. When the land ceases to be used as a photovoltaic park for renewable power production or at the end of the period of 10 years from the date of connection (such date to have been given to the Local Planning Authority within one month of grid connection) whichever shall first occur, the use hereby permitted shall cease and all materials and equipment brought on the land in connection with the use permitted shall be removed and the land restored to its previous state or as otherwise agreed, in accordance with details that have been submitted to and agreed in writing by the Local Planning Authority prior to the decommissioning works taking place. Such details shall include the time scale for decommissioning'.

Reason:

To enable the Local Planning Authority to maintain control of development and to allow of the reassessment of the functional need of the panels against the visions, infrastructure delivery, employment opportunities, growth aspirations for Northern Devon, in accordance with policies ST01, ST02, ST06, ST11, ST16, of the North Devon and Torridge Local Plan.

4. The development hereby approved shall be constructed in accordance with the following schedule of external finishing materials:

Ground Mounted Solar Panels - Glass Solar Panels with Aluminium Frame and Ground Mounted Metal Frame
GRP Enclosure - Colour - Green.
Security fencing - Green

Reason:

In the interests of the appearance of the development and locality in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

5. Prior to the commencement of development, including any site clearance and groundworks, a detailed Landscape and Ecological Management Plan (LEMP) shall have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The content of the LEMP will address and expand upon the provision and management of all landscape and biodiversity avoidance, mitigation and enhancement measures of the development as set out within the ecological appraisal and preliminary ecological appraisal shall include:
 - a) A detailed Landscaping Plan
 - b) Description and evaluation of landscape and ecological features to be created managed and ecological trends and constraints on site that might influence management;
 - c) A Defra Biodiversity Net Gain Metric calculation;
 - d) Aims and objectives of management;
 - e) Appropriate management options for achieving aims and objectives;
 - f) Prescriptions for management actions;
 - g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over an initial 10- year period);
 - h) Details of the body or organization responsible for implementation of plan;

- i) Ongoing landscape and ecological monitoring and implementation of any necessary remedial measures;
- j) Means of reporting of landscape and ecological monitoring results to the Local Planning Authority and provisions for seeking written agreement to any changes to the management actions and prescriptions that may be necessary to ensure effective delivery of the aims and objectives of the LEMP over time.

The LEMP shall also include details of the mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning landscape and biodiversity objectives of the scheme. The development shall be implemented in accordance with the approved details.

Reason:

In order to protect and enhance biodiversity on the site in accordance with the aims of Policies ST14 and DM08 of the North Devon and Torridge Local Plan and paragraph 174 of the National Planning Policy Framework.

6. Prior to the commencement of development, including any site clearance, groundworks or construction (save such preliminary or minor works that the Local Planning Authority may agree in writing), a Construction Management Plan (CMP) detailing how development works will be managed during the life of the works shall be submitted in writing for the approval of the Local Planning Authority. For the avoidance of doubt and where relevant, the CMP shall include:

- a) details of control measures for addressing fugitive dust from earthworks and construction activities;
- b) a noise control plan which details hours of operation and proposed mitigation measures;
- c) specified parking for vehicles associated with the development works;
- d) details of measures to prevent mud contaminating public footpaths and roads;
- e) arrangements for materials deliveries, storage and waste materials removals;
- f) a point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed.

The details so approved and any subsequent amendments as shall be agreed in writing by the Local Planning Authority shall be complied with in full and be monitored by the applicants to ensure continuing compliance throughout and until completion of the development.

Reason:

To minimise the impact of the works during the construction of the development in the interests of highway safety and to safeguard the amenities of the local area from potential impacts whilst site clearance, groundworks and construction is underway.

7. No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction, has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system shall then be constructed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority, and shall thereafter be so maintained.

To ensure that surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area, in accordance with policy ST02 of the North Devon and Torridge Local Plan.

8. In the event that the operator is notified in writing by the Local Planning Authority that the authority is satisfied that a glint and/or glare problem is being caused by the approved development, a Glint and Glare assessment shall be prepared and submitted to the Local Planning Authority for written approval. The assessment report shall be prepared by a suitably qualified and experienced person having regard to relevant standards and good practice guidance. The assessment report shall be submitted to the Local Planning Authority within 3 months of receiving notification of a problem existing. The report shall include details of proposed mitigation measures for addressing any unacceptable impacts identified by the assessment. Approved mitigation measures shall be fully implemented within 1 month of receiving written approval of the mitigation scheme from the Local Planning Authority.

Reason:

To ensure that any Glint or Glare impacts which may be identified are properly mitigated throughout the lifetime of the application in the interests of the appearance of the countryside, and of the amenity of the area and any neighbouring living conditions or highway conditions in accordance with policies ST04, DM01, DM04, DM05 and DM08A of the North Devon and Torridge Local Plan'

Informatives

1. Bats and bat roosts are protected by law under Schedule 5 of the Wildlife & Countryside Act 1981 [as amended], Schedule 2 of the Conservation [Natural Habitats, &c] Regulations 1994, the Countryside Rights Of Way Act 2000, and the Conservation of Species and Habitats Regulations 2017. It is an offence to recklessly or deliberately kill, injure or capture [take] bats, recklessly or deliberately disturb bats, damage, destroy or obstruct access to bat roosts. For further advice contact the Bat Helpline 0345 1300 228.
2. It is an offence under section 1 of the Wildlife and Countryside Act 1981 (as amended) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. It is strongly recommended that any buildings or land where consent for work has been granted are checked for nesting birds prior to any work being undertaken. Where inspection is obscured i.e. Hedgerows, Ivy and in trees of dense foliage it is advised that work is scheduled for outside the nesting season i.e. not undertaken between March and August (inclusive). For further advice please contact the RSPB Southwest Regional Office 01392 432691.

3. Bats and bat roosts are protected by law under Schedule 5 of the Wildlife & Countryside Act 1981 [as amended], Schedule 2 of the Conservation [Natural Habitats, &c] Regulations 1994, the Countryside Rights Of Way Act 2000, and the Conservation of Species and Habitats Regulations 2017. It is an offence to recklessly or deliberately kill, injure or capture [take] bats, recklessly or deliberately disturb bats, damage, destroy or obstruct access to bat roosts. For further advice contact the Bat Helpline 0345 1300 228.

4. The applicant is advised that the development hereby approved should include the following security measures:

The security fences incorporate a Perimeter Intrusion Detection System (PID) system, including a series of fence mounted sensors, that monitors and detects any form of intrusion from the perimeter and then can provide a real time alert of this; Where appropriate and feasible, buildings should be protected by an intruder alarm, this is recommended to be monitored and compliant with current National Police Chiefs Council guidance. The buildings should also have robust external doors/windows. These are advised to meet an appropriate security standard such as LPS 1175 or equivalent; and
The inclusion of a CCTV system.

5. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.