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Application: DOV/13/01106

Old Engine Shed Field

Sutton Court Farm

Land between Pineham & East Langdon

TR31924649



- a) **DOV/13/01106 - Installation of ground-mounted photovoltaic solar arrays to generate electricity for export to the National Grid together with transformer stations; formation of new access; internal access track; landscaping; fencing; access gate and associated ancillary infrastructure – Old Engine Shed, Sutton Court Farm (Land between Pineham and East Langdon)**

Reason for report: Level of public interest.

- b) **Summary of Recommendation**

Planning Permission be Refused.

Procedural Matter

The application was originally submitted in December 2013 for an 11MW proposal on a site totalling 22.7 hectares. The land involved a mixture of Grade 2 and 3a quality agricultural land. Following concerns raised by officers in respect of loss of such land, and in the light of appeal decisions at the time, the applicants requested that the proposal was held in abeyance whilst further consideration was given towards a revised scheme. In February 2015 a revised proposal was submitted involving a reduced site area of approximately 10 hectares. However the information was not complete and additional information was not submitted until May 2015. At that stage, full publicity was given to the revised proposal.

Given that the application relates to a revised proposal rather than a fresh application, consultee comments in relation to both schemes are included in this report. However, members should be aware that comments will only be relevant in so far as they relate to the revised submission.

- c) **Planning Policy and Guidance**

Dover District Core Strategy (CS)

- Policy DM1 states that development will not be permitted outside the confines unless specifically justified by other plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- Policy DM15 states that development which would result in the loss of or adversely affect the character or appearance of the countryside will only be permitted if it is; i) in accordance with development plan documents; ii) justified by the needs of agriculture; iii) justified by the need to sustain a rural economy or community; iv) it cannot be accommodated elsewhere; and v) it does not result in the loss of ecological habitats. Measures should be incorporated to reduce as far as practicable any harmful effects on countryside character.
- Policy DM16 states that development which would harm the character of the landscape will only be permitted if, inter alia, it incorporates any necessary avoidance or mitigation measures and can be sited to avoid or reduce harm and /or incorporate design measures to mitigate the impacts to an acceptable level.

Dover Core Strategy Evidence Base

- Sustainable Construction and Renewable Energy. Evidence base for sustainable construction policies and testing of renewable energy capacity and feasibility of the Dover District Council Core Strategy 2006 – 2026.

National Planning Policy Framework

- Paragraph 17 sets out core planning principles including reference to encouraging the use of renewable resources.
- Paragraph 98. LPAs should not require applicants for renewable energy to demonstrate the overall need for renewable and carbon energy. Applications should be approved if impacts are (or can be made) acceptable.
- Paragraph 109. Planning system should contribute to and enhance the natural and local environment by, inter alia, protecting and enhancing valued landscapes.
- Paragraph 111. Encourages the effective use of land by reusing brownfield land provided it is not of high environmental quality
- Paragraph 112 indicates that significant development of agricultural land should be shown to be necessary and, where this is demonstrated, areas of poorer quality land should be used in preference to that of a higher quality.
- Paragraph 128-136. LPAs should assess significance of any heritage asset which may be affected by a proposal. Where proposal would lead to less than substantial harm, harm should be weighed against public benefits of proposal. The more important the asset the greater the weight should be.

National Planning Practice Guidance

Introduced on 6 March 2014. Provides guidance on a number of planning issues, including solar farms, under the heading of renewable and low carbon energy.

- Paragraph 001. Planning has important role to play in delivery of new renewable and low carbon energy infrastructure.
- Paragraph 003. The UK has legal commitments to cut greenhouse gases and meet increased energy demand from renewable sources.
- Paragraph 007. Need for renewable does not automatically override environmental protections. Local topography important factor in assessing impact of wind turbines. Impact can be as great in predominantly flat landscapes as hilly areas. Great care should be taken to conserve heritage assets in manner appropriate to their significance. Proposals in AONBs or areas close to them where there could be an adverse impact will need careful consideration.
- Paragraph 013. Focussing large scale solar farms on previously developed land and non agricultural land, provided it is not of high environmental value. Where a proposal involves greenfield land, whether the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land.

Other Government Policy Statements

- Renewable Energy Directive 2009 requires UK to provide 15% of energy consumption by renewable sources by 2020. By 2011 6.8% of electricity produced from renewable sources. UK Renewable Energy Strategy 2009 suggests UK has potential for renewables to provide over 30% of energy needs by 2020. Latest figures suggest 15% figure will be achieved but further targets will be required beyond 2020.
- Speech by Minister for Energy and Climate Change 25 April 2013 – emphasises that brownfield land should be preferred and where solar farms are not on brownfield land preference is for low grade agricultural land.
- Speech by Planning Minister 29 January 2014 – emphasises NPPF considerations and that where land is designated at a relatively high grade it should not be preferred for the siting of such developments.
- Speech by Minister for Energy and Climate Change 22 April 2014 – main message from UK Solar PV Strategy is that Government keen to focus on domestic and commercial roof space and on previously developed land.
- UK Solar PV Strategy Part 2 – April 2014. Confirms central role that solar PV can play in UK energy mix. Forward by Minister explains that UK has potential to install up to 20GW of solar early in the next decade. Report points out that solar PV enjoys the highest public approval rating of any energy technology, typically above 80%.
- Guide issued by Department of Energy & Climate Change May 2104, stresses the continuing importance of role the planning system has to play in delivering renewable energy and provides case studies of wind farms and solar farms.
- 28 October 2014 Department of Energy and Climate Change re-issued its Policy for increasing the use of low carbon technologies to ensure the country has a secure supply of energy to reduce greenhouse gas emissions.
- Written Statement made by Secretary of State for Communities and Local Government 25 March 2015. Emphasises need for supporting solar energy but recognised public concerns that insufficient weight had been given to benefit of high quality agricultural land. Reiterates previous advice that any proposal for a solar farm on best and most versatile land would need to be justified by the most compelling evidence

d) **Relevant Planning History**

Application no DOV/07/01148 submitted September 2007 for 5 wind turbines. Following a refusal of permission by the Council, a subsequent appeal was dismissed in March 2009, the Inspector finding that whilst he felt there was both a need and landscape capacity for renewable energy in this part of Kent, the scheme was unacceptable in policy, safety and environmental terms and did not represent a sensitive approach to renewable energy resources in this particular area of the countryside.

e) **Technical Responses – Original Scheme**

Environmental Health Officer – No observations

KCC Highways – No objection in principle but would need further details of HGV movements and tracking diagram to demonstrate HGVs could pass cars in the lane leading to the site.

Agricultural Advisor – Land lost to agriculture for a significant period and must be regarded as significant for purposes of NPPF. No information on why poorer quality land could not be used. Notes Ministers are focusing on low grade agricultural land for siting of solar farms. In response to further information by appellant, considers that main purpose of protecting resource is to permit productive, efficient and flexible agricultural use for food and or non-food crops.

Natural England – No comments regarding impact upon AONB but suggests views of Kent Downs Unit are sought. Likely to impact upon significant amount of Best and Most Versatile land but would be reversible and not long term.

Environment Agency – No objections and notes Flood Risk Assessment points out that any localised channelling of surface water will be treated on site during routine inspections.

Kent Police – Notes references to security but little information on how it would be designed out.

Kent Wildlife Trust – No comments.

KCC Footpaths – No objections but notes adjacent footpaths may be affected and would support screening to mitigate visual impact

Southern Water – The Council's Building Control officers should be consulted on adequacy of soakaways.

KCC Archaeology – Notes the heritage assessment points to potential of prehistoric and Roman-British remains. Recommends condition for programme of archaeological work

English Heritage – Notes no direct impacts upon designated assets but recommends assessment of archaeological potential and potential impact upon landscape character.

Ecology Officer – No ecological constraints on the proposed development but recommends ecological management plan. Accepts that there will be some degradation of local landscape character but impact will be limited. Given wider benefits of scheme, considers insufficient grounds to refuse on landscape grounds

Third Party Responses - Original Scheme

Objections – 75 individual representations and objections from Langdon Parish Council, the Langdon Action Group and the CPRE for reasons which may be summarised as follows:

- Loss of Best quality agricultural land
- Alternative brownfield sites available. Better locations elsewhere
- Negative visual impact on countryside
- Would ruin picturesque village of East Langdon
- Could not be screened successfully
- One of few unspoilt areas

- Adverse impact upon tourism
- Industrialisation of landscape
- Loss of heritage value of area
- Would detract from enjoyment of walkers
- Would make local roads dangerous
- Would swamp Pineham and East Langdon
- Loss of amenity to local residents
- Contrary to Solar Trade Association principles for siting
- Contrary to National Planning Guidance
- Benefits landowner only – not the local community

Support - 6 individual letters for reasons which may be summarised as follows:

- Nearest neighbour. No real harm and not displeasing to eye
- We should not shrink responsibilities for renewable energy
- Not very visible
- Need to reduce carbon dioxide emissions
- Need to achieve more sustainable supply of electricity
- Can be viewed as an environmental project

Guston and Whitfield Parish Councils have no objections but raise concerns relating to the road access and impact on the community of Pineham and residents of Archers Court road.

Technical Responses – Revised Scheme

Historic England – No further comments

KCC Highways – Additional information previously requested still to be submitted. Construction Management Plan will need amending to relate to reduced site.

Environment Agency – No objections.

Southern Water – No additional comments.

Natural England – Notes that amendments relate largely to size and unlikely to have significantly different impact than original proposal.

Environmental Health – No additional comments and notes a valid ICNIRP certificate has been submitted.

Agricultural Advisor – Notes that although size of site is reduced, remaining land is Grade 3a quality which still falls within 'Best and Most Versatile'. Considers policy position was strengthened with NPG against using BMV land for solar farms. Still no clear indication to find site on poorer quality land and several permissions granted recently on such land. Although 2 appeal decisions quoted granting permission on BMV land, particular considerations applied and cites reference to 4 further cases where permission was refused on such land.

Third Party Responses – Revised Scheme

Objections - 13 further individual objections received, as well as from Langdon Parish Council, East Langdon Action Group and CPRE for reasons which may be summarised as follows:

- Previous objections should be taken into account
- Loss of high quality agricultural land- needed for food production
- Reference to 'poorer quality agricultural land misleading
- Adverse effect on AONB
- Detrimental to landscape. Cannot be screened effectively
- Industrialises landscape
- Although smaller is no less acceptable
- Alternative brownfield sites available
- Previously described as quintessential countryside
- Will lead to expansion of same site
- White cliffs country side internationally appreciated
- Adverse impact on tourism
- Visible from public footpaths, including national walking trail
- Close to sensitive heritage sites
- Connection point is main locational factor
- No existing access – previous permission has expired
- Supportive of view of Council's agricultural advisor
- LVIA does not include views from Waldershare lane
- Government view is that if community say no, permission should be refused
- Adverse Impact on Conservation Area
- No evidence poorer quality land considered
- Planting of hedge would remove views of countryside
- No economic benefit to area
- No significant consultations carried out

Support – Revised Scheme

Templewell and Whitfield Parish Councils raise no objections.

Guston Parish Council supports the proposal.

f) 1. **The Site and the Proposal**

1.1 The revised application site comprises 10 hectares of part of a larger open field located to the south east of Archers Court Road and to the east of the A256. It is situated on land rising from south east up to north west with a small valley running in a north east direction to the south east of the site. There is a mature tree and hedgerow forming the northern, north western and part of the south western boundaries. Access is currently from a field access from Waldershare lane to the north east. Beyond the south east boundary is a dilapidated building known as the 'engine shed' which was used at one time to power a cable car system transporting coal on an overhead pylon to Dover harbour. The nearest buildings are Little Pineham Farm 150 metres to the west of the site and Poison Wood 150 metres to the east. The village of East Langdon lies approximately 1.3 km to the east. The surrounding countryside is predominantly in arable use. A public

footpath connecting Pineham with East Langdon runs along the valley floor before climbing up to Waldershare Lane

- 1.2 The revised site removes approximately 12.7 hectares of land to the south east which was within the area of the originally submitted application. That land (approximately 36 hectares) would remain in arable use.
- 1.3 The proposal is to construct parallel rows of solar arrays which will be south facing and extend a maximum of 2.65 metres above ground level. It will provide up to 5MW of power for a period of 25 years after which time it would be demolished. A 1.8 metre deer fence would be proposed around the site but would not be lit. There would be 1 substation, 2no transformer stations and 3no Inverter Stations located along the north western boundary adjacent to the tree screen. Connection to the grid would be via pylons which cross the applicant's land. Existing planting would be reinforced with the introduction of new hedgerow planting along the south west and south east boundaries. In addition new hedgerows would be planted to the east of the site and along Waldershare Lane (beyond the site but within the applicant's control) to further mitigate impact. Grazing of sheep would be introduced between panels to continue agricultural use. In addition bio diversity measures would be introduced in the form of the planting of wildflower meadows, bat boxes, barn boxes and insect habitats.
- 1.4 Access is intended to be via a new access from Archers Court Road and then an access track running broadly south towards the northern part of the site. Permission for such works were granted in the form of 2 applications in October 2011 and July 2012 (application nos DOV/11/00742 & DOV/12/00381 refer) but were not implemented and subsequently lapsed. The applicant was therefore requested to formally include access details within the application description but has not responded at the time of report compilation.
- 1.5 The revised application was supported by a range of supporting documents including a planning statement, design & access statement, a landscape and visual impact assessment (LVIA) and a site selection assessment in connection with the original proposal. Officers have fully considered all the contents of the supporting studies where appropriate. For practical reasons, this report does not summarise all the topic areas covered, but concentrates on key issues relevant to the merits or otherwise of the application. For the avoidance of doubt where issues are not specifically referred to below, officers have accepted conclusions within studies. Copies of the studies are available for inspection by members if required.

2. **Main Issues**

- 2.1 The main issues in the consideration of this application are:
 - The principle of the solar farm use
 - Loss of agricultural land
 - The landscape and visual Impact
 - Impact upon heritage assets

- Ecological interests
- Transport Issues
- Other Matters

3. **Assessment**

Principle of the solar farm use

- 3.1 It is clear that the Government attaches great importance to the provision of renewable energy and as referred to earlier, the NPPF makes it clear that local planning authorities should not question the need for such provision. Good progress is being made towards meeting UK targets but the Government continues to stress the importance of solar provision in various Ministerial Statements. It is emphasised that local planning authorities have a key enabling role in this respect. Additionally the evidence base for the Core Strategy pointed to the relatively high levels of irradiation in the south east and the potential that Dover has to play in delivering such a form of renewable energy.
- 3.2 Balancing the above however, the Government recognises the potential concerns about inappropriate siting and in the Executive Summary to the UK solar PV Strategy issued in April 2014, referred to the public response to large scale solar farms which have sometimes been sited insensitively and has begun to erode the otherwise record levels of public acceptability which the solar sector as a whole enjoys. As referred to above, this concern was reiterated in March of this year. There have also been Ministerial announcements to focus the future growth of solar on domestic and commercial roof space and on previously developed land. Guidance on environmental considerations has also been re-emphasised with the publication of the NPG, with the following factors being particularly important:
- the need for renewable energy does not automatically override environmental protections;
 - great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of planning proposals on views important to their setting;
 - proposals in National Parks and AONBs and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration
 - Where a proposal involves greenfield land, whether the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land.
 - Protecting local amenity is an important consideration which should be given proper weight in planning decisions.
- 3.3 Having regard to the above, whilst the principle of solar energy is to be supported, it is clear from national policy guidance and more recent Ministerial statements, that selected sites need careful consideration and the principle should not override important considerations such as landscape, heritage, loss of agricultural land as well as other detailed considerations, all of which are considered below.

Loss of Agricultural Land

- 3.4 The nationally recognised Agricultural Land Classification system divides agricultural land into 5 categories to determine its suitability and longer term protection for agricultural use with Grades 1 – Grade 3a being regarded as ‘Best and Most Versatile’(BMV). The original scheme was made up of Grades 2a and 3a land whilst the revised scheme is wholly Grade 3a. Whilst the applicant argues that it is of lesser quality, as a matter of fact it remains BMV land.
- 3.5 The importance of BMV land according to Natural England Technical Information Note TIN049 is *‘the land which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals’*. It follows from the above that such land is best suited for the range of crops that can be grown, together with consistency and levels of yield.
- 3.6 The development of BMV land for solar purposes raises two main issues: Firstly, whether there is an actual loss, and secondly if it does amount to a loss, whether that is necessary in the light of the strong Government policy presumption against such a loss. The issues have produced a number of contrasting appeal decisions over the last few years.
- 3.7 With regard to the former, the applicant argues that any loss of agricultural land would only be temporary and support for that approach is gained from a recent appeal decision at Burthy Farm near Newquay dated September 2014 (ref 2212340) where the Inspector took the view that there would be no loss of permanent land given that it was only for 25 years. However, there are several appeal decisions which take a contrary view including Littles Farm in Kent dated June 2014 (ref 2212592), Church Farm Hacheston dated May 2014 (ref 2193911) which was a Secretary of State decision, Valley Farm, in Suffolk dated June 2014(ref 2204846) and our own Marshborough Farm dated July 2014 (ref 2203582). Those decisions all take the view that 25 years amounts to a generation and for the whole of that time, land would not be available for the most productive of agricultural uses and would not make the best agricultural use of the land. Officers agree with that view and consider its alternative use would amount to a ‘significant’ development of agricultural land which paragraph 112 of the NPPF presumes against.
- 3.8 The applicant also argues that agricultural use would continue, albeit in a different form, and gains support from an appeal decision at Lanyon Farm, Newquay dated August 2014 (ref2213745) where the Inspector gave some weight to a ‘vision document’ involving fruit vegetables and hens occupying space between arrays. Such an argument has validity where poorer quality agricultural land is involved, but whilst it would be difficult to guarantee that such uses would continue in any event through enforceability of any planning conditions, it does not overcome the fact that the alternative uses would not make best use of BMV land for agricultural purposes. This view was emphasised in the appeal decisions referred to above.

Additionally, in the case of the current appeal, the only agricultural alternative being put forward is for sheep grazing which similarly does not make best use of BMV land.

- 3.9 In the light of the above, and having regard to Government's strong and repeated advice to retain BMV land and to direct solar farms to brownfield land or poorer quality land first, officers consider that such a loss is unacceptable unless it can be shown that there is no reasonable alternative.
- 3.10 In that respect, the applicant submitted a detailed site selection assessment based on a preliminary desk based assessment, a review of brownfield and non-agricultural sites and a review of alternative greenfield sites. Criteria influencing site selection were identified such as the need for south facing sites, minimal environmental constraints, landscape and visual considerations and an available grid connection. In respect of the latter the applicant argues that due to viability constraints the search area was limited to 600 metre – 1.5km radius from the overhead power line. On the basis of the above, and taking into account all the criteria, the proposed site is considered favourable.
- 3.11 However, officers consider the assessment is flawed in a number of respects. For example, of the 9 alternative sites considered several are dismissed because of their relatively high landscape impact or impact on public rights of way; issues which could also be raised in connection with the application site as set out below. Furthermore, little weight is given to available brownfield sites such as the former Tilmanstone colliery which has already received a planning permission for a solar farm on part of the site and a screening opinion for a solar farm on an extension to that site. In respect of Snowdown colliery, officers have recently been in active discussions regarding a solar farm proposal and an application has recently been submitted. Additionally, permission has already been granted on several sites with lower quality agricultural land such as the revised scheme at Marshborough recently (DOV/15/00115), Guston (DOV/14/01133) and land at Richborough (DOV/13/794). There are also large urban sites such as land around the Richborough area and within the built up area of Dover, particularly on roofs of buildings, which all offer further scope for the use of solar. A good example of this is two recent permissions involving the use of large numbers of solar panels on the industrial premises of Stevens & Carlotti just south of Richborough.
- 3.12 From a policy point of view, there is nothing in national policy that suggests protection of BMV land carries less weight simply because an area has a high proportion of such land as is the case in Dover District. In that regard it is a national asset. Even if there was, given the above considerations, there are clearly other sites throughout the district on poorer quality land which could be considered in preference to the application site. Whilst those may not be within the applicant's control or in close proximity to an overhead line within reasonable reach of his land, such factors are not considered to be sufficient reasons to give preference instead to the loss of BMV land. In that respect there is no minimum or target number of schemes to be

delivered in a district or county set out in policy or otherwise, notwithstanding the general high level of renewable energy targets.

- 3.13 In the light of the above, officers conclude that the proposal would result in a significant loss of BMV land and that a case has not been made to demonstrate that there are no suitable alternatives on poorer quality or brownfield land.

Landscape and Visual Impact

- 3.14 A landscape and visual impact assessment (LVIA) has been submitted in support of the proposal and has since been amended to include consideration of views from Waldershare Lane. Officers are in agreement with the various views selected but do not share all of the conclusions reached.
- 3.15 In general terms, the site is reasonably well contained within the wider landscape because of the surrounding undulating topography. From the north for example, from Archers Court Road it would be totally screened from view and the same would be true on the roads from Pineham to Guston and from Guston to East Langdon. Similarly, from East Langdon itself the solar farm would not be visible. From within the settlements of Great and Little Pineham Farms, there would be filtered views only because of intervening tree and hedgerows. To the west of the site is the North Downs Way running in a north south direction. However, either side of the route is a strong tree and hedgerow with the land rising slightly to the site itself. Views would be limited to occasional glimpses only.
- 3.16 From Waldershare Lane to the north east of the site, the solar farm would be mostly screened because of the topography. However for a distance of about 200 metres the site would be clearly visible travelling north west just after the access to Enifer Down. From that direction there would be clear views on the south facing hillside where the solar farm would be at odds in a context of a surrounding open arable landscape on either side as well as in the foreground. In order to reduce impact, mitigation screening is proposed along the south eastern boundary and also the boundary with Waldershare Lane.
- 3.17 In addition to the above, public footpath EE45 crosses an open landscape to the east of Great Pineham Farm before it climbs up towards Enifer Down. From that direction the site would also be clearly visible, as well as across an open field to the south east of the access to Enifer Down and before Waldershare Lane.
- 3.18 The applicant considers that the solar farm from the above directions would appear as limited horizontal slivers of development which would be significantly less in height than surrounding vegetation. Furthermore in time it would be mitigated by proposed vegetation. Whilst the latter may be true in the longer term, it would take a significant time to mature and in the interim the site would be clearly visible. In addition, officers consider that the impact is somewhat underplayed by the applicant and that the solar farm would not satisfactorily integrate into the wider landscape to the south east of the site where there is currently no field boundary. In reaching that

finding, officers acknowledge that the impact would be confined to the above vantage points. However, notwithstanding that, there would be some adverse visual harm arising and therefore some conflict with Policy DM15 of the Core Strategy as a result.

Impact upon Heritage Assets

- 3.19 No known heritage assets lie within the development site itself. From an archaeological perspective there are ring ditches to be found in the wider area and a Roman Road to the west which is now the route of the North Downs Way. Although there is potential for archaeological remains, it is unlikely and had permission been recommended, officers consider that such matters could have been dealt with by condition. With regard to other heritage assets, Langdon Abbey is a Grade II* listed building a short distance to the north and there is a scheduled ancient monument also lying to the north. Additionally there are listed buildings within East Langdon and a Conservation Area within the heart of the village itself.
- 3.20 Because of the topography and vegetation, the supporting assessment concludes that there would be little or no adverse impact because of almost complete lack of intervisibility. The site itself does not contribute to the setting of the assets as a result. Officers concur with the assessment and are satisfied that the settings of the surrounding ancient monuments, listed buildings and Conservation Area will all be preserved in accordance with the statutory tests.

Ecological Issues

- 3.21 An ecological scoping survey was submitted with the initial application to assess the significance of the site for protected species. No impact was identified on the nearby Eastling Wood local wildlife site or Poison Wood ancient woodland. No evidence was found in the form of amphibians or reptiles. It is acknowledged that the site margins provides habitats for supporting birds and bats, but 6 metre buffer strips to the edges are considered sufficient to provide for mitigation. A series of badger setts were identified and further survey work recommended. In overall terms the survey work recommended the development of a nature conservation site enhancement and management plan in order to positively protect and enhance the various habitat issues identified.
- 3.22 Officers accept the above conclusions and consider that ecological matters could have been dealt with through the imposition of suitable conditions had the proposal been acceptable in principle.

Highway Issues

- 3.23 Although no clear access exists on to Archers Court Road at present, two permissions were granted for a farm access and track in 2011 and 2012 as referred to above. The track would be constructed using concrete railway sleepers laid out in a herringbone arrangement. The intention was that these would be for use by heavy agricultural machinery in connection with harvesting of nearby fields. The original submission intended to make use of the access arrangements granted

by the permissions and also indicated that adequate visibility could be provided in both directions, together with tracking diagrams indicating that HGV vehicles could pass cars safely in the passing places along the road. A Construction Management Plan (CMP) was also submitted indicating details of likely numbers of HGV vehicles together with routing arrangements. Given that historical situation, KCC Highways raised no objections in principle subject to clarification on HGV movements.

- 3.24 As referred to earlier, both permissions have since lapsed and although the previous access point and track remain within the application site boundary, the access itself has not been formally included within the description of the application despite the applicant being requested to do so. Clarification has also been received to confirm that the previously proposed details will continue to apply and that the CMP would be amended to respond to the smaller revised site. At the time of report compilation clarification on the access has not been received and members will be updated further at the meeting. Assuming clarification is received, and in view of KCC Highways advice, officers raise no objections to the proposed access arrangements, details of which could have been controlled through suitable conditions had the proposal been supportable in principle.

Other Matters

- 3.25 A flood risk assessment demonstrated a low risk of flooding with surface water run off being improved through soil improvement and biodiversity proposals.
- 3.26 A waste audit proposal submitted with the application provided adequate details to demonstrate how reduction, re-use and recycling of waste generated by the proposal could be dealt with.
- 3.27 With regard to glint and glare, the applicant points out that most light is absorbed to the PC cell, with reflective light calculated as being as little as 2%. It is therefore likely to be less than from other surfaces and is not considered to be a significant issue.

Balancing of Issues and Conclusion

- 3.28 The proposal would provide 5MW of electricity from a renewable resource which would be a modest but nonetheless valuable contribution to meeting national targets for renewable energy and make a contribution towards the challenges of climate change. No objections are raised in respect of heritage or ecological matters and subject to clarification on means of access, no objections are raised from a highways point of view.
- 3.29 However, against the proposal is the harm identified in terms of a significant loss of BMV agricultural land and officers are not satisfied that there is no alternative to a countryside location using such land. On the contrary there are several examples where other sites on lesser quality land have come forward as alternatives, have been granted permission or have been identified as possibilities.

- 3.30 In addition to the above, there would be an adverse visual impact albeit that this would be limited to views from short sections of Waldershare Lane and from the public footpath. In isolation, if that was the only harm arising, officers consider that a case could be made for the wider benefits of renewable energy to override such limited harm. However, in conjunction with the loss of BMV land it is another factor which weighs against the proposal.
- 3.31 Taking all the above into account, officers remain concerned that the loss of BMV agricultural land remains significant and would be directly in conflict with policy objectives in the NPPF and the National Planning Practice Guidance and recent appeal decisions elsewhere, including within Dover District at the original Marshborough Farm case (prior to it being revised on non BMV land). In that particular case members will recall that they refused permission on the basis of loss of BMV land which was subsequently supported at appeal. Officers are also mindful of the need for consistency in decision making in the light of those recent appeal decisions on this issue, and members will recall that planning permission was refused in September 2014 for a solar farm at Guston where loss of BMV land was the sole issue (App no DOV/14/00153 refers). In this instance there is also the additional limited harm caused through landscape impact. Accordingly, for these reasons, refusal of planning permission is recommended.

g) **Recommendation**

I PERMISSION BE REFUSED for the following reasons:

1. The proposed solar farm would result in the loss of a significant area of Best and Most Versatile Agricultural Land and in the opinion of the local planning authority it has not been demonstrated that development of the agricultural land is necessary or that no suitable previously developed sites or sites of lower agricultural land are available. The proposal would therefore be contrary to paragraph 013 (renewable and low carbon energy) of the National Planning Practice Guidance and paragraph 112 of the National Planning Policy Framework.

2. The proposed solar farm, by reason of its scale, prominence and urbanising impact, which could not be negated from localised views, would appear as an incongruous and alien feature in the open countryside which would cause harm to its character and appearance contrary to Policy DM15 of the Dover District Core Strategy, the National Planning Policy Framework which recognises the intrinsic character and beauty of the countryside, and the National Practice Guidance which seeks to avoid the negative impact of solar farms in undulating landscapes.

II Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Kim Bennett