

- a) **DOV/23/00974 – Erection of a controlled environment agricultural (CEA) facility to include a solar panel array, associated infrastructure and landscaping - Europa Nursery, Hills Court Road, Ash**

Reason for report – Number of contrary views (13 objections)

- b) **Summary of Recommendation**

Planning permission be granted

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM3, DM11, DM15, DM16

Land Allocations Local Plan (2015)

Local Plan (2002) Saved policies: C08

National Planning Policy Framework (NPPF) (2023): Paragraphs 2, 7, 8, 11, 12, 38, 47-48, 55-57, 85 – 89, 97, 104, 109, 114-117, 124, 127, 128, 132, 135 - 140, 157, 159 – 160, 162 – 163, 165, 167 - 175, 180, 186 - 188, 189 - 194, 200-213

Ash Parish Council Neighbourhood Development Plan 2018-2037 (2021): Policies ANP1, ANP4, ANP5, ANP6, ANP13, ANP15

National Planning Practice Guidance & Kent Design Guide

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990

SPG4 Kent Vehicle Parking Standards

Submission Draft Dover District Local Plan (2023): The Consultation Draft Dover District Local Plan is a material planning consideration in the determination of this planning application. At this stage in the plan making process the policies of the draft can be afforded some weight, but this depends on the nature of objections and consistency with the NPPF. Draft policies SP1, SP2, SP3, SP4, SP5, SP6, SP11, SP12, SP13, SP14, SP15, CC1, CC2, CC3, CC4, CC5, CC6, CC8, PM1, PM2, E1, TI1, TI2, TI3, NE1, NE2, NE3, NE4, NE5, HE1, HE3

- d) **Relevant Planning History**

Various applications relating to the wider site, including:

DOV/90/00156 – demolition of existing greenhouses and boiler house and erection of new greenhouses and boiler house – Granted

DOV/90/00156/A – Revised details of boiler house/fertiliser store and details of chimneys, planting and parking – Granted

DOV/92/00802 – Single storey office building for office staff of four – permission not required

DOV/97/00614 – Extension to existing grading, cold store and distribution facilities.

Construction of new access and relocation of car park – Granted

DOV/97/00614/E – Amendments to approved scheme – Refused

DOV/97/00614/F – Amendments to planning permission DOV/97/0614 to incorporate staff amenity area – Granted

DOV/00/00574 – Erection of combined heat and power unit including storage tanks and ancillary plant – Granted
DOV/02/01491 - Removal of condition (iii) attached to planning permission CH/7/72/752 to enable occupation by persons other than those employed in agriculture – Granted
DOV/07/01508 - Erection of 10.7ha of replacement glasshouse together with associated ancillary works, re-siting of mobile homes, construction of reservoir, infilling and extension of existing reservoirs and construction of service road – Granted
DOV/08/00961 - Erection of 10.357ha of replacement glasshouses together with associated ancillary works, re-siting of mobile homes, construction of reservoirs, refurbishment of existing reservoirs and construction of service road – Granted
DOV/11/00007 – Reconstruction of amenity block – Granted
DOV/11/00989 - Renewal of planning permission DOV/08/961 for the erection of 10.357ha of replacement glasshouses together with associated ancillary works, re-siting of mobile homes, construction of reservoirs, refurbishment of existing reservoirs and construction of service road – Granted
DOV/12/00419 – Erection of a plant room building, construction of heat recovery tanks and associated groundworks – Granted
DOV/12/00693 - Variation of conditions 4, 5, 6, and 7 of planning permission DOV/12/419 to enable the phasing of development – Granted
DOV/12/00694 - Variation of conditions of planning permission DOV/11/989 to enable the phasing of development – Granted
DOV/13/00227 - Variation of condition 2 of planning permission DOV/11/00989 to substitute design drawing for alterations to Glasshouse 2 (lower site) – Granted

e) Consultee and Third-Party Representations

Representations can be found in full in the online planning files. A summary has been provided below:

Ash Parish Council – Support. Noted there are provisions for water collection, however considered there needs to be a more substantial water management plan in relation to the staged water release into the surrounding area.

Natural England – No objection, the proposal will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes (further advice is provided on protected species and other natural environment issues). To meet the requirements of the Habitats Regulations, advised to record the decision that a likely significant effect can be ruled out.

Environment Agency (EA) – have assessed the application as having low environmental risk and have no comments to make. The applicant may be required to apply directly to the EA for other consents (contact information to be included as an informative if permission is granted).

Southern Water – advise the Environment Agency should be consulted regarding the use of a septic tank drainage which disposes of effluent to sub-soil irrigation and provided details of when sustainable drainage systems (SuDS) will be adopted and specifications (information to be included as an informative if permission is granted). Technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse. The rainwater harvesting system should be designed, installed and maintained to current British Standards to ensure measures are in place to protect the public water supply and avoid cross contamination. It is possible a sewer now deemed public could

be crossing the site so should any be found, an investigation will be required to ascertain its ownership.

KCC Flood and Water Management – advise additional ground investigation will be required to support the use of or ruling out infiltration and recommend soakage tests be compliant with BRE 365. Note the site (excluding the solar panels) will be discharging to ground and overland flows seem to indicate this would run-off overland in to the off-site ditches; further surveys to confirm connection of the existing ditch network downstream or demonstration of suitable capacity to attenuate flows from the site are recommended. It is essential that vegetated buffer strips and planting around the solar panels are proposed and maintained throughout the lifetime of its operation as future removal/lack of maintenance may result in increased runoff/erosion. A suitable maintenance regime is required. Specifications for the drainage system modelling at detailed design stage are suggested, as well as a water quality assessment and catchment diagram (information to be included as an informative if permission is granted). Conditions are suggested for the submission of a detailed sustainable surface water drainage scheme, a verification report pertaining to the surface water drainage scheme and for details to demonstrate that an effective outfall for surface water is provided for the development layout which may include details of surveys of watercourses and culverts and/or details of any works that may be necessary to deliver an effective outfall for surface water.

KCC County Archaeology – *The site is located within an area of archaeological potential associated with multi-period remains located on dry-land above the low-lying Goshall Valley and Ash Levels. Previous archaeological investigations adjacent and to the south (carried out in two phases as part of the redevelopment of Europa Nurseries) and included evidence for Mesolithic activity and various field-systems, paddocks and possible drove-ways of Middle Bronze Age and Late Iron Age to Romano-British date. Additionally, it is noted that the proposed development site lies on or close to the projected line of the main Roman road between Canterbury and the Roman port of Richborough.*

The planning statement which accompanies this application notes that archaeological works were carried out in association with the earlier redevelopment of the Europa Nursery site. These included proposals for archaeological investigations within the red-line area of the present proposed development but (as the previous consent was only part implemented) detailed archaeological investigations were not carried out within the present application site. The planning statement suggests that the previous approach of watching briefs during construction could be adopted for the present site. I note however that the previous approach was not for watching briefs but for strip, map and sample archaeological excavation ahead of development. This would again seem appropriate and could be secured by a suitably worded planning condition requiring a programme of archaeological works. A condition for the submission of details of foundation design and any other proposals involving below ground excavation is also recommended.

KCC Highways and Transportation – initially provided advice on the specifications required for parking spaces and cycle storage, noting the proposal seeks to erect a 10,320m² glasshouse creating employment for 25 persons, acknowledging that the parking provision is likely to be sufficient given the nature of the site and acknowledging this supersedes a larger site previously granted permission.

Subsequently raised no objection subject to the imposition of conditions/obligations to secure a construction management plan; measures to prevent discharge of surface water onto the highway; provision and retention of the vehicle and cycle parking spaces/facilities shown prior to the use commencing. An informative was also suggested.

Heritage Team – *The application submission does not describe the heritage assets as required by the NPPF; heritage assets that are potentially affected have been identified within the LVIA and a judgement has simply been made that there is no impact due to the existence of hedges or distance from the site. This assessment is not necessarily incorrect but the significance of the designated heritage assets and how their setting contributes to that has not been properly assessed. The issue with this is that in respect of farmhouses is that the landscape and its function (i.e. agricultural) is part of their historic significance, and so disconnecting the historic relationship of the farmhouse from the land can be harmful. The applicants should really be using the Historic England GPA3 to determine what the contribution of the setting is to the significance of the heritage assets before concluding that it is 'negligible'. There is also an issue using this word as it doesn't mean 'no harm'. The application should have a Heritage Statement; at present I can only advise that it appears that the submission does not demonstrate that heritage assets have been appropriately considered. In respect of the detail that has been submitted, a fuller assessment of The Manor House (grade II listed) is required. This building is physically closest to the site and while it's surrounded by trees so has potentially no intervisibility with the site, how that building relates to the land both today and historically needs assessment. The viewpoint map shows that they haven't viewed the site from the Manor House and I am unable to advise that adequate and appropriate level of assessment has been carried out for this particularly building such that we can be confident that there is no harm or that if there is any harm that it has been fully considered and/or mitigated where possible*

Environmental Protection – Note no details of lighting have been provided, suggesting the area will be a rural dark sky so any lighting of the area will be noticeable and may influence residential amenity, this could be clarified during consultation or a condition imposed. Note the submission of a noise assessment with mitigation measures (acoustic fencing) included and accept the report and its findings. Also note the direction on issues possibly caused by deliveries to the site and request conditions to control this (deliveries to and collections from the site by HGV during the hours of 07:00am to 18:00pm on any operational day; submission of a delivery management plan including access routes for deliveries, acceptable conduct objective of delivery drivers with content as outlined in the environmental noise impact assessment submitted, maximum site speeds of 15Kmph for HGV's, direction on HGV vehicles that they shall only use non-intrusive broadband noise type vehicle reversing alarms and/or reversing cameras and there shall be no use of pulsed and/or tonal reversing alarms for the protection of residential amenity). Given the rural location and proximity to residential properties, they are concerned by the effect of the demolition and construction phase on residential amenity and request a condition for a demolition and construction management plan. In relation to contamination, their consultant raised concerns in relation to the age of the report submitted, based on phase 3 of the nurseries development and superseding the previous permissions for greenhouses at the site, which discusses potential hydrocarbon contamination at the site and hardstanding remaining in situ. They recommend that any approval granted be subject to the standard (4 part) contaminated land condition and an appropriate contaminated land assessment be submitted relating directly to the proposed site and development. A condition dealing with any unexpected contamination found during construction is also suggested.

Tree and Horticulture Officer – is satisfied with the planting/landscaping scheme but would like to see a management plan to show how the trees/hedging will be planted and cared for until established as well as a condition requiring dead trees to be replaced within 3/5 years.

River Stour IDB – Although the majority of this site lies just outside of our IDB Drainage District, the surface water strategy submitted with this application states that the runoff will be discharged to a watercourse within our boundary; this watercourse has a direct connection with IDB185 - Cooper Street Lead Dyke and IDB171 - Gosshall Main Stream. If it can be initially demonstrated that infiltration is not feasible at this location and that water can be effectively conveyed from the point of discharge to a wider receiving network, the applicant will require our Land Drainage Consent for the construction of any new outfall to the receiving watercourse and will need approval in principle under our Byelaw 3, specifically with regard to the payment of a Surface Water Development Contribution for any increase in rates/volumes of discharge that may be directed into our District.

Byelaw 3 states: 3. Control of Introduction of Water and Increase in Flow or Volume of Water No person shall as a result of development (within the meaning of section 55 of the Town and Country Planning Act 1990 as amended (the 1990 Act) (whether or not such development is authorised by the 1990 Act or any regulation or order whatsoever or none of them) for any purpose by means of any channel, siphon, pipeline or sluice or by any other means whatsoever introduce any water into any watercourse in the District so as to directly or indirectly increase the flow or volume of water in any watercourse in the District (without the previous consent of the Board). Any such contribution will be a one-off payment, and will serve to facilitate the management of the increased flows resulting from the development into our District.

Third Party Representations:

13 letters of objection have been received and are summarised below:

- Visual impact – scale, height is considerably taller than existing greenhouses/approved greenhouse, insufficient details of planting to screen proposals, out of keeping with rural location/setting, industrialisation of the landscape, impact on footpaths surrounding site, some trees in the CGI images have been removed, green wall screening previously indicated has not materialised
- Residential amenity – would immediately adjoin a number of dwellings
- Heritage – proximity to grade II listed building and rural period houses
- Noise – concerns regarding 24/7 operation noise and HGVs
- Planting/landscaping – concerns it will not be established/be maintained
- Flooding/Drainage, low lying land, blocked swales
- Risk to traffic and pedestrian safety
- Ecology/wildlife – wild bird and animal habitat will be displaced to a destructive level
- References and concerns regarding ‘Little South Solar’ farm proposals nearby and that series of hamlets could be absorbed into industrial corridor, impact on Ash levels if both go ahead
- Precedent - if granted, could establish precedent for remaining site to be redeveloped similarly and other small farms to move to vertical farming
- Use – not an acceptable use of agricultural land, no difference between factory building producing salad leaves or car parts, cannot find examples of planning departments granting factory farming facilities in such a rural position, could be located elsewhere
- Should be restricted to brownfield or industrial zones as industrial farming does not require natural light unlike crops under glass, belongs in built up areas not countryside
- Reports are in the main biased, carried out by consultants with little/no local knowledge, omitting or dismissing valid issues, fail to suggest solutions

particularly regarding flood management. Numerous errors/inaccuracies and false assumptions in reports and planning statement.

1 letter in neither support nor objection to the proposals has been received and is summarised as follows:

- Consultation process by Perfectly Fresh held at Discovery Park and on site at Europa Nursery. Offer at consultation to enhance, maintain and provide safe access to lake adjacent to Brook Street
- Complex project of multiple parts (vertical farming factory and solar installation) on brown-field and green field land parts. Should be reviewed in isolation and in context of broader location developments/proposals
- Should be considered in context of major planning application for 180 solar farm across adjacent farmland creating an industrial zone connecting Sandwich and Richborough to Ash across Ash Levels.
- Not against solar projects as complimentary part of UK's sustainable future and energy supply, should not be on viable farmland, replace valuable countryside or have detrimental impact on local community or landscape.
- Whilst a small solar installation with proportionate and reasonable mitigations on visual or ecological impact, hope this application is used to clarify how solar proposals are viewed/determined in light of KCC and DDC policies around sustainability, visual impact, density and proximity (noting distance to proposed solar farm and existing solar farms near White Mill Roundabout and Richborough).
- Perfectly Fresh already owns and operates site, proposing to manage build and operation to have limited impact. Will not be removing valuable farmland, will contribute to local benefits. Creating local skilled employment
- Comments on visual, ecological, historical and community impact of 'Little South Solar' proposals.
- Impact on adjacent properties, including equine holdings, should be made to mitigate impact
- Main site should be no taller than existing greenhouses as seen from any aspect
- Mitigate short term visual impact; heighten peripheral site bunds, replace fallen trees on boundary, collaborate with community on building design
- Noise impact mitigation
- Maintenance of periphery trees and ensuring footpath is clear and accessible for walkers
- Light – no lighting to have impact to the environment and minimise impact from external lighting
- Water – no negative impact from runoff rainwater.

f) 1. The Site and the Proposal

1.1 The site relates to a plot of land (approximately 7.75 hectares) at Europa Nursery, to the northwest of Hills Court Road and immediately to the southwest of Cooper Street Drove. The parcel of land is currently vacant, however previously contained greenhouses and to the south of the site is Europa Nursery which contains greenhouses for the growing and distribution of tomatoes. Public rights of way run to the east, north and west of the site, and continue to the west of the greenhouses south of the site. There are a number of residential dwellings in proximity of the site, located predominantly to the east, with other dwellings, including a grade II listed building located west of the site.

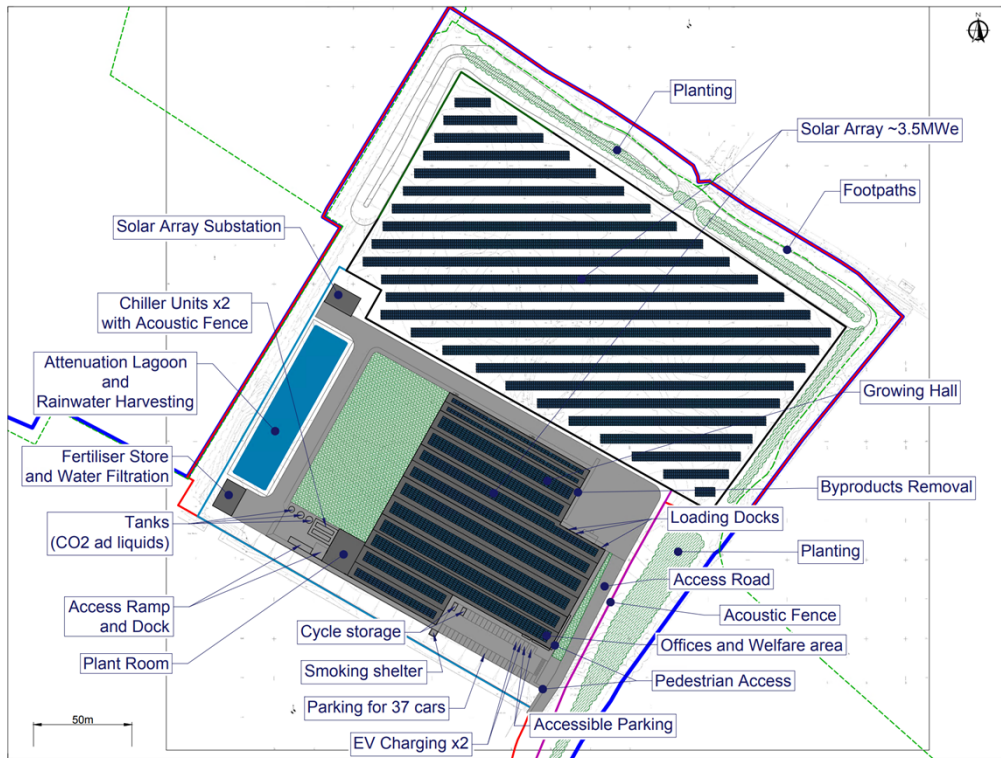


Figure 2. Site Layout Plan

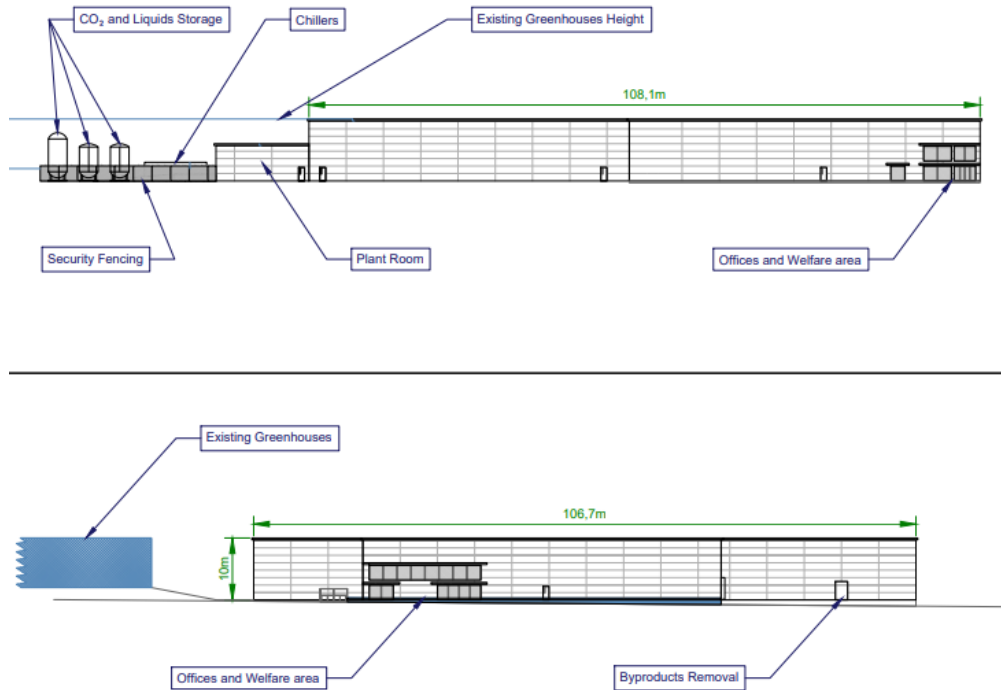


Figure 3. Proposed South and East Elevations

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development

- Impact on the countryside and landscape
- Impact on Heritage Assets
- The impact on residential amenity
- Other material considerations

Assessment

Principle of Development

- 2.2 The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in the plan, unless material considerations indicate otherwise.
- 2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. As discussed further in the following paragraph, it is considered the proposals functionally require a rural location and are ancillary to existing development and uses (to the south of the site and utilising the same access), such that they would accord with the exceptions of this policy.
- 2.4 Policy DM3 permits commercial buildings in the rural area provided they are located at a rural service centre or local centre (which Ash is designated as under Policy CP1); are consistent with the scale and setting of the settlement or are at a village provided they would not generate significant travel demand and are in other respects consistent with the scale and setting of the settlement. In all cases, development should be within the rural confines unless it can be demonstrated no suitable site exists, in which event it should be located adjacent to the settlement unless there is a functional requirement for it to be located elsewhere. In this instance, the site is not within or adjacent to the DM1 settlement confines, however it is considered there is a functional requirement for the development to be located elsewhere due to its scale (not only the CEAF but also the solar array to provide energy to the development and the lagoon for rainwater harvesting). Whilst concerns have been raised that it should be located elsewhere (including at Discovery Park), it is considered that in this location, the proposal would be co-located with an agricultural business, being consistent with the scale of this and being considered acceptable in respect of travel (discussed further in this report). Consequently, it is considered the proposals would accord with the exceptions of this policy.
- 2.5 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. As set out above, the development would generate travel beyond the settlement confines, however would accord with the exceptions of Policies DM1 and DM3.
- 2.6 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. Whilst it is considered that the development would have only a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.

- 2.7 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the development would have only a limited impact on the character of the countryside and no significant adverse impact on the landscape, incorporating measures such as landscaping to mitigate the impact. Consequently, the development would not conflict with DM16.
- 2.8 For the above reasons, the development is in accordance with the exceptions of policies DM1, DM3 and DM11, however would be contrary to DM15 of the Core Strategy, but would accord with the objectives of DM16. It is considered that these policies are also important policies for determining the application.
- 2.9 The NPPF advises at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. Where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (policies include those relating to habitats sites, SSSI, AONB, Heritage Coast, irreplaceable habitats, designated heritage assets and those of archaeological interest and areas at risk of flooding or coastal change), or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 8 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply (or a four year supply if applicable); or, where the council has delivered less than 75% of the housing requirement over the previous three years (the Housing Delivery Test).
- 2.10 Having regard for the most recent Housing Delivery Test, and in accordance with the updated NPPF at paragraphs 77 and 226 the Council can demonstrate a four year housing land supply. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.11 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver a greater number of dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.
- 2.12 Policy DM3 seeks to locate development within the settlement confines of rural service centres or local centres, or adjacent to the confines of villages. As with DM1, the confines were devised with the purpose of delivering a lower number of dwellings than are now required and the policy is considered to be more

restrictive than the NPPF, attracting reduced weight in the planning balance as a result.

- 2.13 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Given the particular characteristics of this application and this site, it is considered that the use of the site as proposed would weigh against the sustainable travel objectives of the NPPF. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intention of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy, having regard to the sites' co-location with similar business, is reduced.
- 2.14 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 180). There is some tension between this policy and the NPPF. In this instance, the sites appearance affords a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.
- 2.15 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 180), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. In this instance the sites appearance within wider landscape character does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date, however should attract reduced weight for the reasons set out in the assessment section below.
- 2.16 The Ash Neighbourhood Development Plan (ANP) was adopted in 2021 and is a material consideration. Policy ANP1 sets out criteria for development in the countryside (the settlement confines referred to in the neighbourhood plan broadly align with those of Policy DM1). Proposals should comply with all relevant policies in the plan:
 - 1.1 Development in the countryside beyond the Ash village settlement boundary will only be supported where it provides for a local business or community need on a site that is adjacent to or beyond the existing village settlement area and is physically well related to the existing settlement boundaries. The use of previously developed land and sites that are

- physically well connected to the existing village settlement will be encouraged where suitable opportunities exist.
- 1.2 Development proposals must have regard to the purpose of conserving and improving the physical surroundings and the natural beauty by enhancing and expanding the trees and hedgerows, preferably native/indigenous, and landscape within the designated area.
 - 1.3 Developments should respect the natural environment within the designated site and adjacent land by enhancing and re-connecting the existing natural features such as veteran trees, hedges, protecting wildlife corridors/ watercourses.
 - 1.4 Developments would maintain the distinctive views and visual connectivity of the village with the surrounding countryside from public vantage points within, and adjacent to, the built-up area, in particular those defined on Map 6 (Key views in and around the village of Ash).
 - 1.5 In areas where there would be significant effect on Public Rights of Way, the network must also be included in the landscape planning of the infrastructure as a whole.
 - 1.6 Developments should demonstrate how they will positively accommodate, divert or enhance paths and link networks.
 - 1.7 Lighting should only be directed where necessary and there should be no loss of night-time dark skies due to light pollution.

In this instance, the site is separate from the settlement boundary, however would utilise previously developed land and would be co-located with similar agricultural businesses. The above points are discussed further in the report, however the proposals include additional trees and planting within a landscaping scheme, include ecological mitigation and enhancement measures and the application is supported by a landscape and visual assessment. For the reasons set out throughout the report and subject to the suggested conditions, it is considered the proposals comply with the broad objectives of the policy.

- 2.17 Policy ANP4 seeks for development to provide biodiversity net gains (BNG) of not less than 10% and for development to demonstrate it has followed the mitigation hierarchy. This application was submitted prior to the national requirement for development to demonstrate 10% BNG, however it is considered that with the proposed landscaping and ecology mitigation and enhancement measures (discussed further in the report and suggested to be secured by condition), there would likely be an overall gain. The policy seeks to maximise the benefits to biodiversity and ensure there is no detriment to European and protected sites, as well as to avoid harm and minimise any adverse impact upon local biodiversity, habitats and wildlife, demonstrating the conservation of protected and rare species, with compensatory provision elsewhere being a last resort and used only if the development demonstrates an overriding benefit to the local community. The policy supports development with an independent survey report which agrees a mitigation plan, amongst other criteria relating to European sites and nutrient neutrality. The relevant matters are discussed further throughout the report, however for the reasons set out, it is considered the proposals accord with the broad objectives of the policy.
- 2.18 Policy ANP5 relates to climate change and supports proposals which minimise vulnerability to the range of impacts from climate change by maximising energy efficiency, utilising low carbon energy and reduce greenhouse emissions; are resilient and adapt to climate change; incorporate low carbon technologies and seek to meet a number of other criteria. A climate change statement has been included in the planning statement (having regard to draft Policies SP1 and CC2

with which the proposals would accord) and it is considered the proposals would accord with the broad objectives of the policy.

- 2.19 The Draft Local Plan was submitted for examination in March 2023 and its policies are considered to be material to the determination of applications, with the weight attributed to the policies dependant on their compliance with the NPPF. Draft Policy SP1 of the Submission Draft Dover District Local Plan seeks to ensure development mitigates climate change by reducing the need to travel and Draft Policy SP2 seeks to ensure new development is well served by facilities and services and create opportunities for active travel. Draft Policy TI1 requires opportunities for sustainable transport modes to be maximised and that development is readily accessible by sustainable transport modes.
- 2.20 Draft Local Plan Policy SP6 seeks to support economic growth within the district, promoting rural employment opportunities in accordance with draft Policy E1. Policy E1 supports employment development in the countryside (beyond the settlements identified in draft Policy SP4) within or adjoining existing rural employment sites and to bring back into use previously developed land (amongst other criteria). As discussed further in the report, it is considered the scale and design of the proposal is compatible with the character, layout, density, fabric and appearance of the existing settlement, surrounding area and countryside, the level and type of activity the proposal would generate and the functional and visual relationship it has with adjoining uses would not result in harm to the character and appearance of the surrounding area and countryside, it would conserve and enhance landscape character (through the proposed landscaping scheme) and biodiversity and not result in unacceptable intrusion into open countryside, it would preserve the setting of heritage assets, it would not have a significant adverse impact on residential amenity, appropriate provision would be made for car parking and access and would be acceptable in respect of highways impact and would provide sustainable travel options to the site (with bicycle storage proposed), in accordance with the objectives of the draft Policies. The Policies are considered to attract moderate weight in the planning balance being devised in line with the NPPF and up to date housing figures to inform the settlement confines.
- 2.21 Draft Policy CC3 supports renewable and low carbon energy development subject to a number of criteria relating to impact on the landscape, heritage, habitats and biodiversity, residential amenity and other matters. The site is Grade 1 best and most versatile agricultural land, however it is considered the proposals would accord with the objectives of the other relevant criteria of the draft Policy and as the electricity generated would serve only the proposed development, there is a functional requirement for their location at the site. The policy is considered to attract moderate weight, being devised in line with the NPPF.
- 2.22 It is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. The proposals would accord with Policies ANP1 and ANP4, as well as draft Policies SP6 and E1. Notwithstanding this, Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date, and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged. Regard has been had to NPPF Paragraph 14 and it is considered the

proposed development would not conflict with the Ash Neighbourhood Plan as a whole.

- 2.23 An assessment as to whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits (and whether this represents a material consideration which indicates that permission should be granted) will be made at the end of this report.

Impact on the Countryside and Landscape

- 2.24 The site is located outside the settlement confines of Policy DM1 and Policies DM15, DM16, draft Policy NE2 and Policy ANP1 are relevant, seeking to protect the character and appearance of the countryside and landscape character areas. NPPF Paragraph 180 is also relevant to the protection of the countryside. The application is supported by a Landscape and Visual Appraisal (LVA) which notes the site lies within the North Kent Plain National Character Area and local character areas, as well as illustrative montages which show existing and proposed views of the site from Cooper Street Drove (to the north of the site) and from the footpath (at the southeast corner of the site).
- 2.25 The proposed CEA facility would measure approximately 108.1m by 106.7m and would be approximately 10m high from ground level, comparable to the height of the glasshouses to the south of the site which are at a slightly higher ground level (shown indicatively in Figure 3). The buildings would be finished in a grey cladding/coating with glazed windows and doors. Parking and cycle storage would be located to the south of the site, with loading docks for lorries at the eastern part of the site. To the west of the site, an attenuation lagoon to manage surface water runoff and facilitate rainwater harvesting for the development is proposed. To the north of the CEAF, approximately 2.7ha of solar arrays would be sited, providing 3.5MW to serve the facility. The arrays would be ground mounted and angled towards the south, with a maximum height of 4m from ground level. The would be set a minimum of 10m from the footpath crossing through the site, with the proposed 2.4m green weldmesh security fencing surrounding the array being set at least 3m from the centre line of the footpath.
- 2.26 The LVA considers the impact of the proposal on both the natural and built landscape, including impacts on nearby heritage assets and public rights of way (PROW) (EE53 lies within the western site boundary and leads north towards Cooper Street and south towards Ash, connecting to other PROW to the east (EE91) and west of the site). Of the 17 viewpoints selected, all but two would result in negligible impacts. The two minor adverse impacts (relating to viewpoints 15 and 16; the footpath within the site boundary in the north and east respectively) are highly sensitive to change, with the PROW being used by pedestrians where enjoying a view is likely a key part of the recreational experience and the proposals would have a medium magnitude of change as the development would introduce prominent elements causing a loss of the open space within the site (this is not however designated open space). Notwithstanding this, planting is proposed alongside the edge of the development which would screen and soften views of the proposal and these are the closest viewpoints to the site. The LVA finds that there would be a minor beneficial residual effect on the existing landscape features within the site, the character of the site and local context, and the key characteristics of the wider landscape (as identified in the 'Preston Horticultural Belt' Landscape Character Area from the Dover District Landscape Character Assessment 2020).

- 2.27 Consequently, subject to the proposed landscaping being provided (a condition is suggested further in this report) and the submission of samples of external materials of the buildings (in the interests of visual amenity), it is considered the proposals would result in no significant harm and would preserve the character and appearance of the wider countryside and landscape area, in accordance with the objectives of NPPF Paragraphs 104, 135 and 180, Policies DM15, DM16, ANP1 and ANP6 and draft Policies PM1 and NE2.

Impact on Heritage Assets and Archaeology

- 2.28 There are a number of Listed Buildings within proximity of the site and the Planning Statement submitted identifies those within 1km of the site, considering the impacts on the setting of these, as well as the more distant Richborough Fort (a scheduled monument). Whilst the heritage team have raised concerns about the assessment of the impacts, a heritage statement has been submitted (having regard to NPPF paragraph 200). Chapter 16 of the NPPF and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out requirements relating to the assessment of the impact on listed buildings and special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 205 of the NPPF sets out that great weight should be given to the conservation of heritage assets, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In addition, draft Policy HE1 seeks to conserve or enhance heritage assets and sets out criteria by which development that would cause total loss or substantial harm may be accepted.
- 2.29 The Manor House is the closest listed building to the CEAF; located to the west of the site and separated by an intervening arable field and the tall trees forming the site boundary with the footpath beyond. It is Grade II Listed and described as

“ASH TR 25 NE WEDDINGTON 5/94 The Manor House 11.10.63 II. House. C16. Timber framed and clad with red brick and tile hanging. Plain tiled roof. Two storeys on plinth with hipped roof and clustered stacks to centre left. Three wooden casements on first floor and 4 on ground, that at end left in an outshot. Large half-dormers on return elevations. Rib and stud door at end right in C20 half-timbered porch”.

As discussed earlier in the report, the site was previously developed, such that the historic setting of the building within the landscape and farmland has been lost. The main appreciation of the listed building is in views from the south. Whilst the proposed CEAF and associated infrastructure may be visible in some views, it is considered that these would be limited by the tall planting to the west of the site and the development would be seen in the context of the glasshouses and development to the south. Consequently, it is considered the development would result in no harm, thereby preserving the significance of the setting of the listed building. In relation to other nearby listed buildings and the more distant scheduled monument, due to the existing and proposed landscaping at the site, and with the development being seen in the context of the existing buildings to

the south, it is considered the development would result in no harm, and would thereby preserve the significance of the setting of other heritage assets, in accordance with the objectives of draft Policies SP15 and HE1, NPPF paragraphs 200 - 213 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2.30 The site is in an area of archaeological potential and a report has been submitted in accordance with NPPF paragraph 200 and draft Policy HE3. The site is within an area of archaeological potential associated with multi period remains and KCC Archaeology have been consulted. Noting the approach to archaeology for previous development at the site, they recommend conditions are imposed for a programme of archaeological work and for details of foundation designs and any other proposals involving below ground excavation to be submitted. Subject to the imposition of these conditions and having had regard to the objectives of the NPPF and draft Policy HE3, the development is considered acceptable in this respect.

Impact on Residential Amenity

- 2.31 The site is in proximity to a number of residential dwellings, with those closest being located to the southeast and to the west. Acoustic fencing would be provided between the new access track and parking and the nearest residential property to the east. New planting would be provided to screen the facility, both in reinforced hedge planting and new areas to the east and north of the site to screen footpath users from the development. Whilst the proposals would be visible from these buildings, it is considered that views of the development would be softened by the existing and proposed landscaping. Furthermore, whilst the CEAF building would be approximately 10m tall, due to its muted colour scheme, and as it would be seen in the context of the glasshouses to the south, it is not considered the development would result in an unacceptably overbearing impact to the amenities of nearby residents. Furthermore, due to the design of the development and separation distance from nearby dwellings (as well as the proposed landscaping), the development is considered unlikely to result in significant harm to privacy or overshadowing of nearby residents.
- 2.32 Given the proximity to residential dwellings, Environmental Protection Officers have suggested a condition is imposed for a demolition and construction management plan to include (but not limited to) noise and vibration control, dust control and suppression, any piling works, parking for staff and contractors, hours of operation, deliveries to the site, storage and control of waste materials and a moratorium on burning of material at the site. This is considered reasonable in the interests of protecting residential amenity. Details of external lighting are also suggested and a condition is discussed further in the ecology section. Subject to the suggested conditions, the development is considered to have an acceptable impact on residential amenity, having had regard to the objectives of NPPF Paragraph 135 and draft Policies PM1, CC3 and E1 and ANP Policies.

Other Material Considerations

Impact on Highways

- 2.33 In respect of traffic to and from the site, the planning statement sets out that this would be of a similar type, but at a reduced level, to that associated with the existing Europa glasshouse business and what would be associated with the approved replacement glasshouses on the site where the proposal would sit

(approved under application reference DOV/11/00989 and subsequent application to amend plans under DOV/13/00227). The statement advises that movement of materials to the facility and export of products would take place between 07:00-18:00, with the intention to reduce this window further once operations are established post build. The plant would operate up to 24 hours per day and there would be no more than 2 articulated vehicles and no more than 3 HGV's visiting and leaving the site each day. 37 parking spaces (2 of which would be accessible bays) would be provided to the south of the building, as well as two covered cycle stores with 'Sheffield' type stands; although there would be a maximum of 25 staff vehicles.

- 2.34 KCC Highways have reviewed the proposals, noting the previous permission, the number of people that would be employed by the proposals and consider that whilst the provisions do not meet the Use Class requirements, this is likely to be sufficient due to the nature of the site. They raise no objection subject to the imposition of conditions to secure the provision of a construction management plan, to prevent the discharge of surface water onto the highway, and to secure the provision and retention of the vehicle parking and cycle parking facilities shown on the approved plans prior to the use of the site commencing. These conditions are considered reasonable to ensure the suitable provision of facilities and the development is therefore considered acceptable in this respect and having had regard to the objectives of NPPF Paragraphs 112-115 and Policies ANP13, ANP15, DM11, DM13 and the objectives of draft Policies T1, T2 and T3.

Impact on Flood Risk/Drainage

- 2.35 The site is located in flood zone 1 which has the lowest risk from flooding, however due to the size of the site, a flood risk assessment has been submitted which considers the potential for flooding from a range of sources, identifying no significant flood risks. Given this and the site's location within flood zone 1, it is not considered necessary to apply the sequential test and the development is considered to pass the exceptions test. The Environment Agency have assessed the application as having low environmental risk and have no comments. The River Stour Internal Drainage Board (IDB) note the submitted surface water strategy states runoff will be discharged to a watercourse within their boundary and that if infiltration is not possible and water can be effectively conveyed from the point of discharge to a wider receiving network, the applicant will require their land drainage consent for the construction of any new outfall to the receiving watercourse and will need their approval. A detailed drainage scheme is suggested to be secured by condition (discussed below), which would be subject to consultation with the River Stour IDB. KCC Flood and Water Management have reviewed the proposals, assessing the proposed drainage to attenuate flows in a balancing pond and providing detailed advice on specification of further testing and reports (to be included as an informative if permission is granted). They recommend conditions are imposed requiring the submission of a detailed sustainable surface water drainage scheme, a verification report in relation to that scheme and for no development to take place until details have been submitted that demonstrate that an effective outfall for surface water is provided for the development layout. The specific wording they suggest refers to reserved matters which is not relevant to this full application and as such, a suitably worded condition requiring these details would be imposed instead. They advise it is essential for the vegetated buffer strips and planting around the solar panels to be maintained throughout the lifetime of its operation as future removal or lack of maintenance could result in increased runoff or erosion. As such, a condition in relation to landscaping details is suggested.

2.36 In relation to contamination, Environmental Protection request the imposition of a four part condition (requiring the submission of a desk top study of previous uses, potential contaminants, sources, pathways and receptors; an investigation and risk assessment if the desktop study shows further investigation is necessary; a detailed remediation scheme if the investigation and risk assessment shows this is necessary; and a verification report demonstrating completion of the works in the remediation scheme if necessary). A condition is also suggested to deal with any contamination which may be found which has not been previously identified, which is considered appropriate.

Trees and Ecology

2.37 In respect of trees and landscaping, the site layout plan shows the existing planting along the northwest, northeast and southeast boundaries of the site, with further planting proposed to the northeast and southeast of the solar panels (between the panels and the public footpaths, softening views) as well as an area of woodland planting to the southeast of the main CEA building (shown in Figure 4). A landscaping scheme has been submitted which sets out a planting strategy for the site boundaries (to fill spaces where there are existing gaps in the northern and eastern boundaries), woodland to screen views of the development from the dwellings to the east of the site and a mixed native hedgerow alongside the footpath that runs through the site (and regard has been had to Policy CO8 which seeks native hedgerow planting and its future maintenance and draft Policy CC8). The Tree and Horticulture Officer is satisfied with the planting/landscaping scheme but requests a management plan to demonstrate how the trees/hedging will be planted and cared for until established (to be secured by condition) and a condition requiring trees which die within 3/5 years to be replaced. It is considered appropriate to suggest a condition requiring the development to be carried out in accordance with the submitted landscaping scheme, with details of maintenance and management to be submitted (to also require the replacement of any trees/shrubs/plants which, within 5 years of their planting, become diseased, die or are removed).

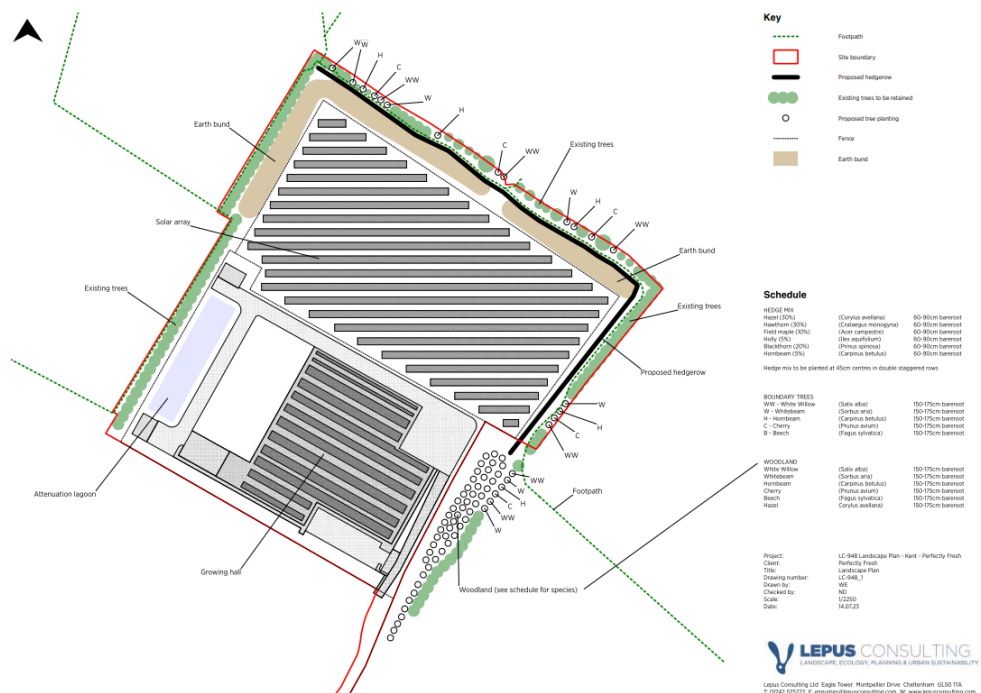


Figure 4. Proposed landscaping scheme

- 2.38 In respect of ecology, a preliminary ecological appraisal (PEA), technical advice note, ecological impact assessment (EclA), great crested newt (GCN) certificate and reptile mitigation plan have been submitted and reviewed by the Senior Natural Environment Officer (SNEO). The development has the potential to result in impacts to a range of protected and priority species, including foraging and commuting bats, badgers, hedgehogs, nesting birds, reptiles and GCN and there is also potential for impacts to the Ash Levels and Richborough Pasture Local Wildlife Site which is immediately adjacent to the northern site boundary. The SNEO is satisfied that the EclA report has clear recommendations for the mitigation measures necessary to avoid/minimise harm to biodiversity. A condition for the implementation of precautionary measures during construction is recommended in relation to the Ash Levels and Richborough Pasture local wildlife site. Furthermore, conditions are suggested for a biodiversity method statement (to ensure the protection of badgers, hedgehogs, nesting birds and reptiles) with works to be carried out in accordance with the relevant sections of the EclA (and for a review and if necessary, update to the ecological measures if development does not commence within one year of the date of the assessment). A condition is suggested requiring the submission of a copy of a Great Crested Newt District Level Licence granted by Natural England prior to development (including site and vegetation clearance). Conditions are also recommended for the submission of a scheme of a bat-sensitive lighting scheme and details of measures to enhance biodiversity at the site (the details provided are sufficient to assure the SNEO that the areas of habitat that will be enhanced for reptiles are not suitable for turtle doves). In respect of reptiles, these cannot be retained within the site and as such, it is proposed these are translocated to an offsite receptor site, to be secured through a legal agreement (with measures to protect all protected/designated species to be secured in the suggested biodiversity method statement condition). Details of a site have been provided and subject to the outcomes of a reptile survey confirming its suitability, the proposed receptor site is acceptable. The reptile mitigation plan will need to be updated following reptile surveys to incorporate results. As such, the recommendation to Members is for the application to be approved subject to the submission of information demonstrating the suitability of a reptile receptor site and a legal agreement to secure the translocation and long term maintenance of the site. Subject to this and the suggested conditions, the development is considered acceptable having had regard to the NPPF and the objectives of draft Policies SP13 and SP14. Having regard to draft Policy NE1 and Policy ANP4, the application was submitted prior to the Government requirement to demonstrate a minimum 10% biodiversity net gain, such that the draft policy is considered to attract limited weight in this instance.
- 2.39 Natural England (NE) have been consulted, raising no objection and considering that the proposals will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. In respect of European Sites, and in meeting the requirements of the Habitats Regulations, a likely significant effect can be ruled out. Furthermore, NE considers the proposals will not have likely significant effects on Sites of Special Scientific Interest (SSSI).

Planning Balance

- 2.40 The principle of development is considered to accord with the exceptions of Policies DM1, DM3 and DM11, reusing a brownfield site and functionally requiring a rural location due to the scale of the development, as well as being

co-located with a similar agricultural business. Policy DM1 is considered to attract limited weight, however Policies DM3 and DM11 are considered to attract reduced weight, in favour of the development in the planning balance. The development is considered to be contrary to Policy DM15, which attracts moderate weight against the proposals, however would accord with Policy DM16 which attracts reduced weight in favour. In respect of ANP, the development is considered to accord with the objectives of Policies ANP1, ANP4 and ANP5 which are considered to attract full weight in favour of the development. The proposals would also accord with the objectives of draft Policies SP6 and E1, attracting moderate weight in favour of the development.

- 2.41 The development would create 25 full time jobs. The impact on visual amenity, heritage assets and residential amenity has been considered and subject to the imposition of the suggested conditions, is considered to be acceptable. The impacts on other material considerations, including highways, ecology, archaeology and flood risk have been considered and are acceptable subject to the imposition of conditions and a legal agreement being secured in relation to reptile translocation.
- 2.42 Overall, having had regard to the objectives of NPPF Paragraph 11, it is considered that the disbenefits of the scheme do not outweigh the benefits, with material considerations indicating that permission should be granted.

3. Conclusion

- 3.1 For the reasons set out above and having had regard to the tilted balance engaged under NPPF Paragraph 11, the proposed controlled environment agricultural (CEA) facility with solar panel array, associated infrastructure and landscaping is considered acceptable in principle and in respect of other material considerations, with the benefits of the development outweighing the disbenefits and it is recommended that permission be granted.

g) Recommendation

- I PERMISSION BE GRANTED subject to completion of a S106 legal agreement to secure reptile translocation and the following conditions:
- (1) time limit for commencement
 - (2) plans
 - (3) samples of external materials
 - (4) development in accordance with the soft landscaping scheme, with details of management and maintenance (including replacement of any trees/shrubs/planting which die, become diseased or are removed within 5 years)
 - (5) completion of access, turning and parking areas prior to first use
 - (6) programme of archaeological work
 - (7) details of foundation designs/proposals involving below ground investigation
 - (8) construction management plan (relating to highways)
 - (9) provision of measures to prevent the discharge of surface water onto the highway
 - (10) provision and permanent retention of the vehicle parking spaces and cycle parking facilities shown on the approved plans prior to the use of the site commencing
 - (11) detailed sustainable surface water drainage scheme
 - (12) verification report pertaining to the surface water drainage scheme
 - (13) details to demonstrate that an effective outfall for surface water is provided for the development

- (14) deliveries to and collection from the site by HGVs to be conducted during 07:00am to 18:00pm on any operational day
- (15) delivery management plan
- (16) demolition and construction management plan
- (17) 4 part contamination condition (requiring the submission of a desk top study of previous uses, potential contaminants, sources, pathways and receptors; an investigation and risk assessment if the desktop study shows further investigation is necessary; a detailed remediation scheme if the investigation and risk assessment shows this is necessary; and a verification report demonstrating completion of the works in the remediation scheme if necessary).
- (18) dealing with any unexpected contamination
- (19) construction environmental management plan (in relation to ecology and biodiversity)
- (20) biodiversity method statement (with update survey provision)
- (21) great crested newt district level licence
- (22) bat sensitive lighting
- (23) biodiversity enhancement measures

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

Case Officer

Rachel Morgan