

AGENDA ITEM



Committee and date

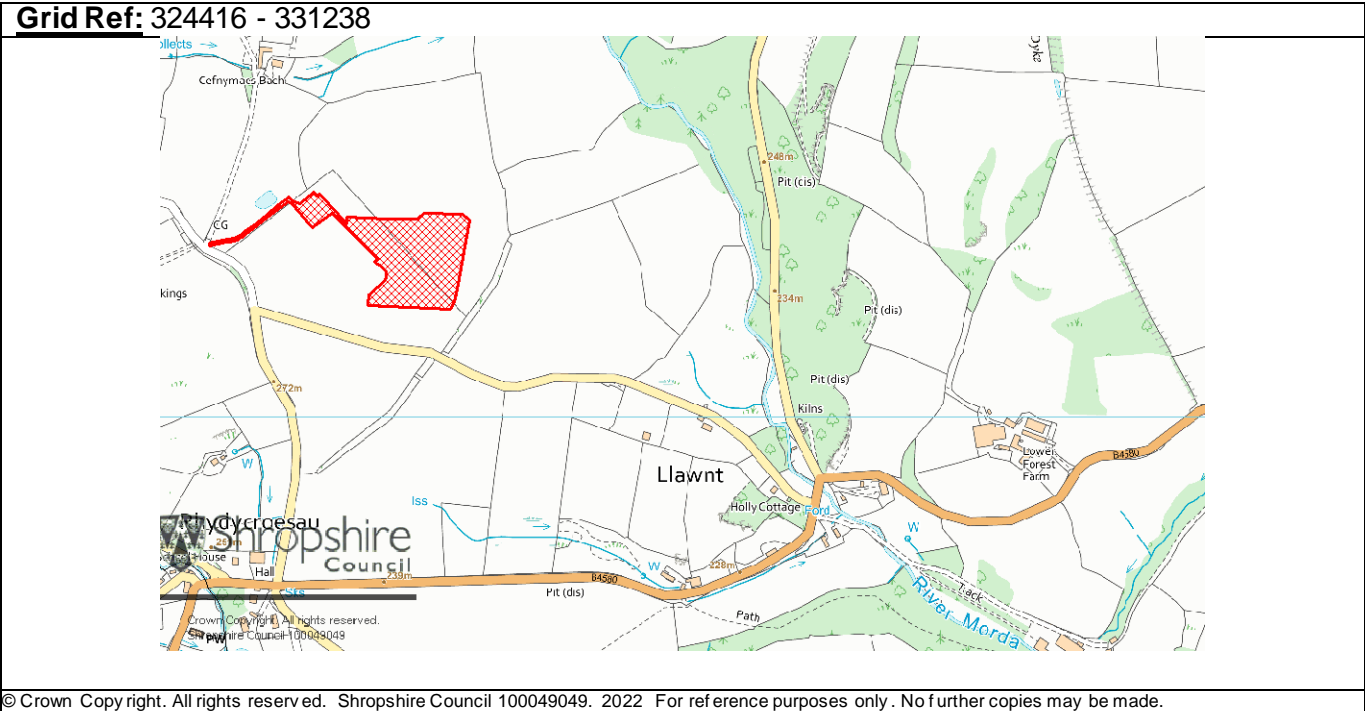
11th October 2022

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 22/03447/FUL	Parish:	Oswestry Rural
Proposal: Formation of Solar Park consisting of 3024 solar panels and associated equipment namely inverters, site and DNO substations, battery energy storage units, 2m high deer fence with gates, formation of a permanent access road, CCTV cameras and a weather station mounted on galvanised steel masts inside the solar park		
Site Address: Land North Greenfields Lane Cefn-y-Maes Farm Ffordd Cefn-y-Maes Rhydycroesau Shropshire		
Applicant: Positech Energy Limited		
Case Officer: Mark Perry	email: mark.perry@shropshire.gov.uk	



Recommendation:- Refuse for the following reason:

- The proposal results in harm to the setting of the Scheduled Ancient Monument, Offa's Dyke. Clear and convincing justification to substantiate and overcome the harm which would arise has not been submitted to accompany the application. The public benefits associated with the proposal would not outweigh the harm which has been identified to the designated heritage asset. The proposal conflicts with national planning policy and guidance, as well as Core Strategy Policies CS5, CS6 and CS17 as well as SAMDev Policies MD2 and MD13."

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission for a ground mounted solar park. The development would consist of 3024 solar panels and associated electrical equipment to include inverters, site and DNO substations, battery energy storage units, 2m high deer fence with gates, formation of a permanent access road, CCTV cameras and infrared lighting and a weather station mounted on galvanised steel masts.
- 1.2 Access would be via an existing access off the unclassified road running along the western boundary of the site and would join onto an existing rough stone track, which leads to the solar park site.
- 1.3 This planning application follows a previous refusal for a similar scheme on the site (application no. 22/00350/FUL) which was refused for the following reason:
- "The proposal results in harm to the setting of the Scheduled Ancient Monument, Offa's Dyke. Clear and convincing justification to substantiate and overcome the harm which would arise has not been submitted to accompany the application. The public benefits associated with the proposal would not outweigh the harm which has been identified to the designated heritage asset. The proposal conflicts with national planning policy and guidance, as well as Core Strategy Policies CS5, CS6 and CS17 as well as SAMDev Policies MD2 and MD13."*
- 1.4 This submission includes some changes to the scheme in order to try and address the previous reason for refusal. The changes includes a reduction in the number of panels from 3240 to 3024, the angle of the panels has been reduced from 30 degrees to 25 degrees and the number of panel rows has been reduced from 18 to 14.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site lies within designated open countryside.

2.2 The site is located within two agricultural field parcels. The land is generally uneven, rising and falling, relatively steeply in some areas. The central part of the site is more undulating in nature and this is the predominant location of the solar farm. A highway runs along the site's western and southern boundaries. Agricultural fields lie to the north and east.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 The local member requested that the application be referred to the planning committee for determination and it is noted the Parish Council support the application, contrary to the Officer recommendation. In consideration of the Consultee responses, it was determined that Committee consideration was appropriate in relation to this application.

4.0 COMMUNITY REPRESENTATIONS

Consultee Comment

4.1 **Parish Council-** The Parish Council agree to support this application with the condition that, when the solar panels are no longer required or reached the end of their life, all installations are to be removed and the land restored to its original condition.

4.2 **Historic England-** objects to the application on heritage grounds

The proposed formation of a Solar Park consisting of 3240 solar panels and associated electrical equipment namely inverters, site and DNO substations, battery energy storage units, 2m high deer fence with gates, formation of a permanent access road, CCTV cameras and infrared lighting and a weather station mounted on galvanised steel masts inside the solar park is in a sensitive location with regards to the Historic Environment. The proposed developed site is located c.800m west, and within the setting, of the two Scheduled sections of Offa's Dyke - Section 550yds (500m) long, on Bakers Hill, Selattyn (National Heritage List for England UID:1002933) and Section 410m long, E of Llawnt (National Heritage List for England UID: 1006263).

Offa's Dyke is a nationally significant frontier work dating back to the early medieval period. It is considered to be the largest and most complete purpose-built earthwork of its type in the country. It survives well despite some localised reduction of the earthworks and the infilling of the ditch over time, and will retain evidence for the date and method of its construction. Additionally, it has continued to play a role in the development of England and Wales since.

The Dyke was constructed to make use of the landscape through which it passed in order to provide extensive views westwards, and to appear visually prominent when seen from the west. The topography and open, rural character of this still very agricultural landscape mean that the relationship between Offa's

Dyke, the landscape position it commanded and its wider landscape setting can still be appreciated. The relationship between the monument and its setting can still be appreciated in both static and kinetic views to and from the monument, and when moving through the landscape. This therefore makes an important positive contribution to its significance.

Whilst it is acknowledged that there will be no direct physical impact on designated archaeological sites, due to the nature of the topograph, the proposed development would introduce an extensive, and highly visible, modern industrial element into the setting of the nationally significant Offa's Dyke. This change in the setting is detrimental to the understanding of the landscape in which the Dyke was constructed.

It will not only be visible in views from the monument looking westwards but also in views from many of the lanes and footpaths looking from the countryside the Dyke once dominated back to the monument, drawing the eye away from the monument.

Whilst we agree with the conclusions of the Heritage Impact Assessment, we acknowledge that the impact of the development may be wider than that illustrated. It may also be possible to see the proposed development site from Scheduled sections of Offa's Dyke both to the north and south of the two highlighted sections (UID: 1002933 and UID: 1006263). The application is not supported by a Zone of Visual Influence assessment or similar so it is not possible to confirm this.

Due to the topographical differences between Offa's Dyke and the development area the addition of boundary planting nor the orientation of the panels will have any major mitigating factor when assessing impact.

Although situated on private land this does not affect the definition of setting of a heritage asset. The setting being the surroundings in which a heritage asset is experienced. Its extent not being fixed and may change as the asset and its surrounding evolve.

Historic England's advice is provided in line with the importance attached to the significance and setting of designated heritage assets as set out in the National Planning Policy Framework (NPPF) and Historic Environment Good Practice Advice in Planning guidance.

As set out in the National Planning Policy Framework great weight should be given to a designated heritage asset's conservation (NPPF 199), with any harm to significance clearly and convincingly justified (NPPF 200). Where a development will lead to less than substantial harm, any harm should be weighed against the public (rather than private) benefits of the proposal (NPPF 202).

We encourage you to also seek the advice of Shropshire County Council's Archaeological Advisor and Conservation Officer regarding undesignated

archaeology and built heritage, which should be implemented in full.

Historic England's Position

Historic England assess that the introduction of a solar farm into the rural setting of the monument would impact on the ability to understand and appreciate how it interacts with its environment and functioned within its wider social and economic landscape. This would result in harm to the significance that the monument derives from its setting. Historic England therefore objects to the formation of a solar park in this location.

Recommendation

Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 200 and 202.

4.3 **Archaeology**- objects to the development as a consequence of the harm it would cause to the significance of the two Scheduled sections of Offa's Dyke.

The application is accompanied by a Heritage Impact Assessment by Archaeology Wales, which describes the significance of Offa's Dyke and provides an assessment of the impact that the proposed development would have upon the setting, and thereby the significance, of the monument. As a consequence, officers consider that the requirements of Policy MD13 of the Local Plan and Paragraph 194 of the NPPF have now been satisfied.

The Heritage Impact Assessment finds (at paragraph 6.1.3) that the proposed development will have a negative impact on the setting of the Dyke because: -

"Views west from both the [Scheduled] sections of the Dyke will be affected by the solar farm, which is located on a prominent location on the opposite side of the Morda valley."

The Assessment considers that these impacts will, however, be partially mitigated by the orientation of the panels, the planning of a new hedgerow, and the fact that these sections of the Dyke are located on private land with no public access, such that any impacts on its communal significance will be limited.

The LVIA also concludes that the proposed development would have a moderate adverse landscape impact on the Dyke as a landscape receptor, noting (in the table under paragraph 5.7, pg. 40) that: -

"The proposed development will be partially visible in the middle distance when looking towards Wales from short sections of Offa's Dyke crossing Baker's Hill. The sections in question are not accessible to the public and cross privately owned land."

With reference to the reason for refusal on the previous application (ref.

22/00350/FUL), and specifically in relation to the impact on the significance of the Dyke as a consequence of the affect upon its setting, the Planning Statement contends that: -

“While the Officer Report expressed the view that public access was irrelevant, we take the contrary view that it is central to the appreciation of the significance of designated and undesignated historic monuments and heritage assets.”

As with the previous scheme, Historic England state in their consultation response of 15 August 2022 that they object to the proposed development because they consider it will harm to the significance of the two Scheduled sections of Offa’s Dyke as a consequence of the impacts on their settings.

They state that: -

“...due to the nature of the topography, the proposed development would introduce an extensive, and highly visible, modern industrial element into the setting of the nationally significant Offa's Dyke. This change in the setting is detrimental to the understanding of the landscape in which the Dyke was constructed. It will not only be visible in views from the monument looking westwards but also in views from many of the lanes and footpaths looking from the countryside the Dyke once dominated back to the monument, drawing the eye away from the monument.”

Whilst they agree with the conclusions of the Heritage Impact Assessment, they further state that they consider that the impact of the proposed development may be wider than illustrated by the Assessment, affecting other Scheduled sections of the monument beyond those that were assessed (NHLE refs. 1002933 & 1006263). Likewise, because the Dyke is located on higher ground and therefore provides views down onto and over the proposed development site, in their opinion neither panel orientation and boundary planting “...will have any major mitigating factor when assessing impact.”. They also state that “Although situated on private land this does not affect the definition of setting of a heritage asset.”.

Given the findings of the Heritage Impact Assessment, officers concur with

Historic England’s advice that the proposed development will cause less than substantial harm to the significance of the two sections of Offa’s Dyke. It is therefore considered, contrary to the Applicant’s arguments in their Planning Statement, that the proposed development will be contrary to Local Plan Policies CS5, CS6, MD2 and MD13, and that the tests set out in Paragraphs 199, 200 and 202 of the NPPF apply. In particular, it is advised that, in undertaking the balancing exercise required under Paragraph 202 of the Framework, the decision taker must ensure that, as required under paragraphs 199 and 200, they give ‘great weight’ to the conservation of the Scheduled Monuments, as designated heritage assets of the highest significance. In addition, they should also be satisfied that the Applicant has provided clear and

convincing justification for the harm that would arise from the development. On this basis, SC Archaeology (Historic Environment) objects to the development as a consequence of the harm it would cause to the significance of the two Scheduled sections of Offa's Dyke.

4.4 **Highways-** No objection

4.5 **Ecology-** No objection subject to informatives.

4.6 **Drainage-** The surface water run-off from the solar panels is unlikely to alter the greenfield run-off characteristics of the site therefore the proposals are acceptable.

4.7 **Trees-** No objection subject to implementation of landscaping scheme.

4.8 **Powys County Council-** No response received at time of writing report.

4.9 **Public Comments** – 4 representations have been received commenting on the following:

Any impact would only be during the lifetime of the development- 40 years.

The solar park will occupy a tiny portion of the farm.

The grazing of sheep would continue on the site.

Positive contribution to delivering clean renewable electricity.

Impact on Offa's Dyke

Mitigation proposals are inadequate

Generate income for landowner

Need for more renewable energy

5.0 THE MAIN ISSUES

EIA Screening Opinion

Principle of development

Impact on Heritage Assets

Design and layout

Residential amenity

Highway Safety

Drainage, Trees & Ecology

6.0 OFFICER APPRAISAL

6.1 EIA Screening Opinion

6.1.1 Whilst a Screening Opinion was not submitted by the applicant, this has been undertaken as part of the application process given the site falls within Category 3(a) of Schedule 2 of the 2017 Regulations. The screening opinion confirms that it is not considered that the proposed development would be likely to have significant effects on the environment by virtue of factors such as its nature, size

or location and that the proposed development is not EIA development. An Environmental Impact Assessment is not required.

6.2 Principle of development

- 6.2.1 Applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan policies relevant to the current proposal are discussed below. In addition to these, the National Planning Policy Framework (NPPF) sets out the Government's planning policies and this is a material consideration which should be taken into account in the determination of this application. Further national policy guidance is provided by National Planning Policy Guidance (NPPG).
- 6.2.2 Strategic Objective 9 of the adopted Core Strategy promotes a low carbon Shropshire, including through the generation of energy from renewable sources. The NPPF states that applicants do not need to demonstrate the overall need for renewable or low carbon energy. Core Strategy Policy CS8 positively encourages infrastructure, where this has no significant adverse impact on recognised environmental assets, that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, and working with network providers to ensure provision of necessary energy distribution networks.
- 6.2.3 Planning Practice Guidance on Renewable and low carbon energy sets out the planning considerations that apply to solar farm proposals. It states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses.
- 6.2.4 The application documentation states that the proposed development would generate the current average annual electricity demand of 322 Shropshire households and that the anticipated annual CO₂ emissions saving would be 291 tonnes. The proposal would contribute to the Government's target of being carbon net zero by 2050. The proposed 1.24MWp development would provide relatively significant environmental benefits in relation to renewable energy generation which has strong support under both local and national planning policy.
- 6.2.5 Core Strategy Policy CS13 provides support for rural enterprise and diversification of the economy. This is in line with the NPPF which seeks to support a prosperous rural economy by stating that local plans should promote the development and diversification of agricultural and other land-based rural businesses. The application states that the field is poor quality pasture used for grazing and sheep would periodically graze the land whilst the proposal would provide an additional diversified income to the farm business.

6.2.6 The proposal would be located within open countryside and, whilst Core Strategy policy CS5 seeks to control development in these areas, it provides support for required infrastructure which cannot be accommodated within settlements. The potential impacts of the proposal are discussed below, however this policy would not restrict the installation of a ground-mounted solar farm in principle.

6.3 Site Selection and Agricultural Land Quality Considerations

6.3.1 The NPPF states that the economic and other benefits of the best and most versatile (BMV) agricultural land should be taken into account in planning decisions (para. 174). It states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality (footnote 58). In relation to solar farms, Planning Practice Guidance advises that local planning authorities should encourage the effective use of land by focussing these developments on previously developed and non agricultural land, provided that it is not of high environmental value (para. 013). The guidance advises that, in considering solar farm proposals located on greenfield sites, local planning authorities should consider 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; and
- the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

6.3.2 The Guidance also makes reference to a Ministerial Speech made in April 2013 and a Written Ministerial Statement (WMS) made in March 2015. In relation to the former, this stated that where solar farms are not on brownfield land, the industry should be looking at sites on low grade agricultural land where grazing can take place in parallel with generation. In relation to the WMS this states that meeting our energy goals should not be used to justify the unnecessary use of high quality agricultural land. It states that any proposal for a solar farm involving BMV agricultural land needs to be justified by the most compelling evidence.

6.3.3 An Agricultural Land Classification report has not been submitted to accompany the application. Notwithstanding this, the Provisional Agricultural Land Classification (ALC) for England suggests that the application site is Grade 4 agricultural land, therefore not constituting BMV land.

6.3.4 The applicant has provided some details to evidence why this site has been chosen. It is stated that planning permission for a similar development was granted on a different part of the applicants agricultural holding, by Powys County Council, in 2017. Overall on sustainability and due to economic viability

and the distance from an available power grid connection point, as well as a difficult access to the site, that proposal was not being proceeded with, which has culminated in an application for the current site.

- 6.3.5 The applicant has provided some brief analysis of the availability of alternative sites within the agricultural holding. Other sites have been dismissed because of issues concerning their access and the topography of the land which in some areas prohibited the safe and easy installation of the solar panels. The applicant has not provided any analysis of land outside of the agricultural holding as this was not an option available to them because of the pre-existing lease between the applicant and the land-owner. The existence of the lease does not carry any weight in terms of a material consideration, instead it must be established whether or not this is the most suitable site for the development proposed.
- 6.3.6 The application site does have direct access to the 11kV grid where power enters the farm by overhead cables. This is unlike the site previously approved by Powys County Council. As a result, the revised site would allow 28% higher grid export capacity than the original site.
- 6.3.7 Given the topographical constraints of the holding Officers accept the rationale for choosing this site over others on the holding.

6.4 Impacts on existing agricultural use of land

- 6.4.1 The proposed development would result in the loss of land used for pasture by sheep grazing. Nevertheless, the land would be retained with agricultural use, and the application documents state that the land would be used for periodical sheep grazing. Given that the Agricultural Land Classification of the site is Grade 4, which is not the best and most versatile land, this is a benefit for the scheme. Biodiversity enhancements would comprise the introduction of a 165m long hedgerow and the planting of 5 specimen trees within this hedgerow. This will, when mature, provide an additional landscape feature consistent with the landscape character of the area.
- 6.4.2 The Planning Statement advises that the agricultural holding is located in an area classified as Severely Disadvantaged under the EC Less Favoured Area Designation, where the natural characteristics make it difficult for farmers to compete. These are (mainly upland) areas where the natural characteristics such as geology, altitude, climate, etc. make it difficult for farmers to compete. The applicant advises that the landowner has granted a lease to the applicant in return for a guaranteed index linked annual rent that will provide a degree of long term economic support to the sustainability of the farming business. As such the proposal will help diversify the income to the agricultural enterprise.

6.4 Landscape Impacts

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- 11th October 2022

Land North Greenfields Lane

- 6.4.1 Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets.
- 6.4.2 The proposed solar panels these would be arranged in 14 rows and the panels would be angled at 25 degrees. This would give them an overall height of 2.4m with the lower edge being 0.8m above the ground. Around the perimeter of the site there would be a 2m tall deer fencing. This comprises of galvanised steel wire mesh fixed to timber posts. The battery storage units would be housed in two shipping containers adjacent the PV panels measuring 8.1m long and sub stations would be in units measuring 3 by 2.3m with a height on 2.3m.
- 6.4.3 Like the previous application this revised submission has been accompanied by a Landscape and Visual Impact Assessment (LVIA) dated July 2022. This assessment has been considered by the Council's appointed Landscape Consultant who has advised that the methodology for the LVIA is appropriate for the nature of the proposed development and scale of likely effects and has broadly been prepared in compliance with Guidelines for Landscape and Visual Impact Assessment 3 (GLVIA3). The assessment of effects can be relied on to make a sound planning judgement.
- 6.4.4 The Council's Landscape Consultant has commented on the submitted LVIA stating that that 3 of the judgements of adverse landscape effects on landscape effects, assessed at moderate adverse, are overstated and that these should be neutral. The effect of this is that 10 of the 12 landscape receptors being predicted to experience neutral effects, and the remaining 2 adverse, including a Moderate adverse for Offas's Dyke.
- 6.4.5 Although adverse visual effects are predicted, with levels ranging from Minor to Moderate Adverse, the nature of the topography and vegetation of the study area means that these effects are limited to the vicinity of the site. It is therefore unlikely that the visual effects will be significant.
- 6.4.6 The Council's Landscape Consultant considers that the proposal complies with Core Strategy Policies CS6 and CS17, as well as SAMDev Policies MD2 and MD12.
- 6.4.7 The proposed development would inevitably have an impact on the surrounding landscape, and with the exception of the proposed planting of a 165m section of hedgerow and the planting of 5 new specimen trees along the northern boundary no other mitigation is proposed. This planting will not provide mitigation for the predicted adverse visual effects as there are no publicly accessible viewpoints to the north of the site. Any beneficial effects of the

mitigation measures are therefore limited to the site's vegetation, field pattern and biodiversity but are not reflected in the assessment of effects in the LVIA.

6.4.8 As noted by Historic England, due to the topographical differences between Offa's Dyke and the development area the addition of boundary planting nor the orientation of the panels will have any major mitigating factor when assessing impact.

6.4.9 Although the effect of the proposed development on the character of Offa's Dyke as a landscape element is primarily a visual one, it is not included as a location for the assessment of visual effects because there are no publicly accessible locations within the study area. The inclusion of only publicly accessible locations for the assessment of visual effects accords with the best practice in GLVIA3. This consideration of the effect of the development on the sections of Offa's Dyke that are not publicly accessible are considered below.

6.5 Impact on Historic Environment

6.5.1 The application site is located within the setting of the two Scheduled sections of Offa's Dyke – Section 500m long on Bakers Hill, Selattyn and Section 410m long, East of Llawnt.

6.5.2 Offa's Dyke is a nationally significant frontier work dating back to the early medieval period. It is considered to be the largest and most complete purpose-built earthwork of its type in the country. It survives well despite some localised reduction of the earthworks and the infilling of the ditch over time, and will retain evidence for the date and method of its construction.

6.5.3 In support of the application a Heritage Impact Assessment has been submitted by the applicant which has been considered by Historic England and the Council's Archaeologist.

6.5.4 Historic England recognise that there is no direct physical impact on the Dyke but due to the topography the development would introduce an extensive and highly visible modern industrial element into the setting of the nationally significant Offa's Dyke. The proposed development will not only be visible in views from the monument looking westwards but also in views from many of the lanes and footpaths looking from the countryside the Dyke once dominated back to the monument, drawing the eye away from the monument.

6.5.5 The submitted HIA is considered by Officers to satisfy the requirements of Policy MD13 of the Local Plan and Paragraph 194 of the NPPF. The HIA states that the proposed development will have a negative impact on the setting of both scheduled sections of the Dyke and that views west from both the sections of the Dyke will be affected by the solar farm, which is located on a prominent

location on the opposite side of the Morda valley. The assessment recognises that the impacts of the development are partially mitigated by the alignment of the solar panels, which means they are not facing the scheduled monument, and by a new hedgerow to the north and north-west. The assessment goes on to conclude that the scheduled sections of the Dyke are located on private land the impact on the communal value is minimal.

- 6.5.6 Historic England do agree with the conclusions of the HIA but they consider that the impact of the development may be wider than that illustrated and that it may also be possible to see the proposed development site from Scheduled sections of Offa's Dyke both to the north and south of the two highlighted sections. The application is not supported by a Zone of Visual Influence assessment or similar so it is not possible to confirm this.
- 6.5.7 As noted by Historic England due to the topographical differences between Offa's Dyke and the development area the addition of boundary planting nor the orientation of the panels will have any major mitigating factor when assessing impact.
- 6.5.8 As noted earlier, the landscape and visual impact assessment has only considered the receptors that are publicly accessible. However, when assessing the impact on the setting of a heritage asset the land's accessibility is not relevant. The definition of 'setting' being the surroundings in which a heritage asset is experienced. Its extent not being fixed and may change as the asset and its surroundings evolve.
- 6.5.9 The introduction of a solar farm into the rural setting of the monument is considered to impact on the ability to understand and appreciate how it interacts with its environment and functions within its wider social and economic landscape. This would result in harm to the significance that the monument derives from its setting. Historic England objects to the application on this basis and consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 200 and 202.
- 6.5.10 The Council's Archaeologist concurs with Historic England's advice, stating that the proposal would cause less than substantial harm to the significance of the two sections of Offa's Dyke.
- 6.5.11 Para 199 of the NPPF states that,

'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

- 6.5.12 Para 200 goes on to say 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. Substantial harm to or loss of:...
- b) assets of the highest significance, notably scheduled monuments...should be wholly exceptional.'*
- 6.5.13 It is therefore considered that the proposed development will be contrary to Local Plan Policies CS5, CS6, MD2 and MD13, and that the tests set out in Paragraphs 199, 200 and 202 of the NPPF apply.
- 6.5.14 The NPPF sets out that, the decision taker must ensure that, as required under paragraphs 199 and 200, they give 'great weight' to the conservation of the Scheduled Monuments, as designated heritage assets of the highest significance.
- 6.5.15 Para 202 of the NPPF 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
- 6.5.16 Whilst Core Strategy Policy CS8 positively encourages infrastructure which includes renewable energy generation, this is on the provision that there are no significant adverse impacts on recognised environmental assets. As outlined above, this has not been demonstrated to be the case.
- 6.5.17 Core Strategy Policy CS17 states that all development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the heritage values or functions of these assets, their immediate surroundings or connecting corridors. SAMDev Policy MD13 states that wherever possible, proposals should avoid harm or loss of significance to designated heritage assets, including their settings. The application site lies within the setting of the scheduled monument and it is considered that harm would be caused to the significance of the two Scheduled sections of the heritage asset, as a result of the development.
- 6.5.18 Planning Practice Guidance (007) states that in considering planning applications, 'it is important to be clear that the need for renewable or low carbon energy does not automatically override environmental protections'. It goes on to state (007) that 'great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting;'
- 6.5.19 On the basis of national and local plan policy, it is considered that given the

heritage asset is a Scheduled Monument, significant weight is attached to the harm which has been identified as a result of the proposed development and this weighs heavily against the proposal. The public benefits arising from the development are discussed at the end of the report.

6.6 Ecology

6.6.1 An Ecology Survey has been submitted which has been assessed by the Council Ecologist. The report concludes that the grassland and hedges are species poor and that no signs of protected species were found. An additional length of hedge will be planted, which will provide additional habitat for birds and other wildlife. It is considered that the proposal would comply with Core Strategy Policy CS17 and SAMDev Policy MD12 in this respect.

6.7 Highway Safety

6.7.1 Access into the site is via the existing which leads direct off the unclassified road running along the western boundary of the site. The access currently serves a dwelling which lies within the agricultural holding in which the site is located. The internal access road would branch off the existing access and would run southwards via a stone track towards the site. The Construction Traffic Management Plan (CTMP) confirms that construction and delivery vehicles would use Ffordd Cefn Y Maes to access the site, as the road known as Greenfields Lane is not considered to be adequate to accommodate these vehicles.

6.7.2 During construction the largest vehicles used will be 26 ton curtain sided fixed axle lorries for bringing palletted boxes of solar panels to site and these deliveries will be staggered over a number of days. All other deliveries will be by rigid axle smaller vehicles.

6.7.3 Following commissioning, only periodic site visits for maintenance would be required. On this basis, the proposal is not likely to result in a significant increase of vehicular traffic on the local highway network.

6.7.4 The application has been assessed by the Council's Highways Officer who has raised no objection subject to the development being carried out in accordance with the details contained within the submitted Construction Traffic Management Plan.

6.8 Impact on Residential Amenity

6.8.1 A glint and glare assessment has not been submitted to accompany the application. The nearest dwellings are located north east, south east and north west of the application site. Given the topography of the application site and surrounding land, it is considered unlikely that the proposal would result in

adverse impacts to residential amenities of occupiers within these properties, as a result of any glare from the PV panels.

6.9 Decommissioning

6.9.1 Planning Practice Guidance on renewable energy source recognises that solar farms are normally temporary structures and that planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use; a condition can be attached to this effect.

7.0 Planning Balance and Conclusion

7.1 In terms of benefits, the proposal would involve the provision of a facility that would generate renewable energy, thereby reducing Carbon Dioxide emissions from use of unsustainable sources, which is supported by national and local planning policy and objectives. This is given significant weight. Other benefits include the introduction of a length of hedgerow along part of the northern boundary of the site and the planting of 5 trees which would provide some biodiversity enhancement. Whilst the hedgerow would offer a level of ecological net gain, this is not considered to offer any significant screening of the proposal. Moderate weight is therefore attached to this part of the proposal

7.2 The development would result in some adverse impacts on landscape character and adverse impacts on the visual character of the area. No beneficial effects are predicted. Notwithstanding this, it has been concluded that the proposal would comply with relevant local plan policies based on its overall impact on landscape and visual amenity (albeit not taking into account the scheduled ancient monument).

7.3 Weighing heavily against the benefits is the harm which has been identified to the designated heritage asset and the proposals resultant conflict with national and local plan policy and guidance in this respect. The proposal would result in the loss of greenfield/agricultural land, albeit only Class 4 agricultural land. Whilst the applicant has made some revisions to the scheme since the previous application was refused, it is considered that inadequate mitigation measures or solutions have been put forward to overcome the harm which has been identified to the heritage asset. Clear and convincing justification for the proposal in this location has not been evidenced.

7.4 In taking the above into account, on balance, it is considered that the public benefits arising from the development would not outweigh the harm which has been identified as a result of the impact of the proposal on the scheduled monument. As such the planning application is recommended for refusal.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of

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being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles
CS8 - Facilities, Services and Infrastructure Provision
CS13 - Economic Development, Enterprise and Employment
Economic Development, Enterprise and Employment
CS17 - Environmental Networks
MD2 - Sustainable Design
MD12 - Natural Environment
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

22/00350/FUL Formation of Solar Park consisting of 3240 solar panels and associated electrical equipment namely inverters, site and DNO substations, battery energy storage units, 2m high deer fence with gates, formation of a permanent access road, CCTV cameras and infrared lighting and a weather station mounted on galvanised steel masts inside the solar park
REFUSE 24th June 2022

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Councillor Richard Marshall
Local Member Cllr Robert Macey Cllr Mark Thomas Jones
Appendices APPENDIX 1 - Conditions

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